

customs duties, established, as I understand it, by the legislature of that possession. American Samoa and the Virgin Islands and the island of Guam similarly have schedules of duties, prescribed by the governors of those possessions. In a part of this bill a certain privilege is given to the Philippine Islands about free importations into the United States of its products and a corresponding privilege given us about exporting to the Philippine Islands. But all through the bill runs the idea that it shall not control importations from the Philippines or these other islands. The bill does not apply to them at all. It does not establish a tariff for them.

Mr. WALSH of Montana. That is, it leaves them to establish their own tariff rates?

Mr. REED. Yes, Mr. President.

Mr. SMOOT. But we establish the tariff rates for Porto Rico.

Mr. REED. For Porto Rico, and for the Hawaiian Islands.

Mr. SMOOT. Yes. That is why they are not included in this language.

Mr. HOWELL. Mr. President, I would like to ask if that explanation applies also to the Virgin Islands?

Mr. REED. Yes, Mr. President.

Mr. HOWELL. And American Samoa?

Mr. REED. Yes; and Guam.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 334, line 24, after the words "foreign country," to strike out "shall mean any territory foreign to the United States" and insert "means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions)," so as to read:

(i) Definition: When used in this section the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

Mr. ROBINSON of Arkansas. What is the necessity for defining foreign countries? Are not the words themselves as descriptive as any that can be employed?

Mr. REED. I should think so, but we have questions of mandated countries, and different varieties of political sovereignties.

Mr. ROBINSON of Arkansas. But they are all foreign countries.

Mr. REED. This is just put in out of an excess of caution.

Mr. SMOOT. It was suggested by the Tariff Commission, which thought it cleared some questions which have been in doubt in the past.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 335, after line 10, to insert a new section, to be known as "Sec. 340. Domestic value—Conversion of rates."

Mr. SIMMONS. Let that go over.

The VICE PRESIDENT. The amendment will be passed over.

Mr. McKELLAR. Mr. President, it seems to be about time to take the recess, and I hope the Senator from Utah will not insist on going on further this afternoon.

RECESS

Mr. SMOOT. I move that the Senate take a recess until 12 o'clock to-morrow, in accordance with the unanimous-consent agreement already entered into.

The motion was agreed to; and the Senate (at 4.55 o'clock p. m.), under the order previously entered, took a recess until to-morrow, Saturday, September 14, 1929, at 12 o'clock meridian.

## SENATE

SATURDAY, September 14, 1929

(Legislative day of Monday, September 9, 1929)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

### THE EIGHTEENTH AMENDMENT

Mr. SHEPPARD. Mr. President, there are some statements in an article in Collier's for September 21 regarding the adoption of the eighteenth amendment which need correction and comment.

Some of the headlines are misleading, notably the following:

Not an outburst of idealism, but the pressure of more important war measures and the cunning humor of a political boss, Boies Penrose, gave the drys their chance. They had tried for 40 years to break into the Constitution. Wayne B. Wheeler framed the 105-word, hole-proof amendment that Senator MORRIS SHEPPARD got passed because the Senate was in a hurry and most Senators didn't think it would ever become a law anyway.

The statement that "pressure of more important war measures" had anything substantially to do with the passage of the eighteenth amendment is the conclusion of the writer of the headlines. In my judgment its adoption was not influenced to any serious extent by the fact that war was on and war measures were in the making.

To assert that Wayne B. Wheeler—all honor to his memory—was solely responsible for the amendment which passed Congress and was then submitted to the States is to fall into distinct error.

Turning at this point to the body of the article we find the following expressions:

But it was the Anti-Saloon League and not the legislators themselves that actually made the Sheppard amendment as SHEPPARD presented it to OVERMAN'S committee.

Four years before the portentous conversation on the Senate floor between Penrose and SHEPPARD the Anti-Saloon League had the amendment ready for whatever lawmaker they could persuade to present it.

For instance, here in almost the exact wording of the amendment is a portion of a resolution which was adopted at the annual convention of the Anti-Saloon League in 1913 to forever "prohibit the manufacture and sale and the importation, exportation, and transportation of intoxicating liquors."

The actual words of the eighteenth amendment prohibit the "manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States."

It is true that the Anti-Saloon League at its convention in 1913 passed the resolution above described. In that convention were such leaders as Russell, Baker, Cannon, Barton, Cherrington, Wheeler, McBride, Dinwiddie, Hanly, and the various State superintendents of the league, all of whom took part in its deliberations and in the adoption of this resolution.

The writer of the article does not explain, however, that when the matter of presenting the amendment to Congress was taken up by the Anti-Saloon League and its leaders above mentioned; the Woman's Christian Temperance Union, headed by such distinguished and consecrated women as Mrs. Stevens, Miss Gordon, Mrs. Ellis, Mrs. Boole, Mrs. Yost, and others; the church boards and committees of temperance and morals, in which men like Dr. Clarence True Wilson were active; the International Reform Bureau, led by Rev. Wilbur F. Crafts; prohibitionists in Congress and in other legislative and secular bodies the opinion was reached that public sentiment at that time had not developed to such a degree as to justify more than an attempt to prohibit sale, and manufacture, transportation, importation, and exportation for sale. Nor does he point out that it took almost four years of unremitting effort and study by all the prohibition forces to crystallize public opinion behind the measure in its various stages toward final development. He does not allude to the fact that shortly after the national convention of the Anti-Saloon League, above referred to, the league and the Woman's Christian Temperance Union each formed a committee of one thousand taken from virtually all the prohibition bodies of the land, and that these committees, composing one of the most inspiring spectacles in our history, marched to the east front of the Capitol, singing and shouting, on a cold and raw December morning, the morning of December 10, 1913, and presented to Representative Hobson and myself for introduction in the House and Senate the amendment they had agreed upon, an amendment reading as follows:

[S. J. Res. 88, 63d Cong., 2d sess.]

IN THE SENATE OF THE UNITED STATES,  
December 10, 1913.

Mr. SHEPPARD introduced the following joint resolution, which was read twice and referred to the Committee on the Judiciary

Joint resolution proposing an amendment to the Constitution of the United States

Whereas exact scientific research has demonstrated that alcohol is a narcotic poison, destructive and degenerating to the human organism, and that its distribution as a beverage or contained in food lays a staggering economic burden upon the shoulders of the people, lowers to an appalling degree the average standard of character of our citizenship, thereby undermining the public morals and the foundation of free



institutions, produces widespread crime, pauperism, and insanity, inflicts disease and untimely death upon hundreds of thousands of citizens, and blights with degeneracy their children unborn, threatening the future integrity and the very life of the Nation: Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring), That the following amendment of the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States, as provided by the Constitution:*

"ARTICLE —

"SECTION 1. The sale, manufacture for sale, transportation for sale, importation for sale, and exportation for sale of intoxicating liquors for beverage purposes in the United States and all territory subject to the jurisdiction thereof, are forever prohibited.

"SEC. 2. Congress shall have power to provide for the manufacture, sale, importation, and transportation of intoxicating liquors for sacramental, medicinal, mechanical, pharmaceutical, or scientific purposes, or for use in the arts, and shall have power to enforce this article by all needful legislation."

On that same day, December 10, 1913, during the second session or first regular session of the Sixty-third Congress, Representative Hobson introduced this amendment, or resolution for an amendment, in the House and I introduced it in the Senate. It was reported in the House and voted upon in that body on December 22, 1914. It received a small majority, falling short of the required two-thirds, and was defeated.

Although this resolution represented the combined action and judgment of the Anti-Saloon League, the Woman's Christian Temperance Union, and practically all the other prohibition bodies in the country, the writer calls it my original amendment in an attempt to demonstrate that Wheeler changed it afterwards. As a matter of fact, Wheeler with the other leaders, both men and women, remained at the front for this original measure in the long but unsuccessful fight for its adoption in the House, a measure which, as we have seen, was restricted to the prohibition of sale, manufacture for sale, and so forth. Here is what the writer in Collier's says:

The legal tricks in the eighteenth amendment are hard to find without the aid of those who helped Wayne B. Wheeler to put them there. They don't consist so much of what was put into the amendment as of what was left out. Wheeler proved a clever cutter. For example:

Senator MORRIS SHEPPARD and the Anti-Saloon League, as its very name indicates, were enemies not of drinkers but of the liquor traffic, the saloon, the brewer, the distiller. Senator SHEPPARD's proposed eighteenth amendment, until it fell into the hands of Wheeler, was not directed against the drinking or the making of liquor except for commercial purposes.

Here is how SHEPPARD's original amendment introduced in 1913, but shelved, put it: "The sale, manufacture for sale, transportation for sale, importation for sale of intoxicating liquors for beverage purposes, etc., are hereby prohibited." Senator SHEPPARD told me about the so-called 1918 measure. "I didn't intend to stop the making of liquor in homes," he said. "I didn't even have in mind the idea of preventing gifts of liquor, or the carrying of liquor from point to point unless these things were done for commercial purposes. Private making of booze and private drinking thereof were not aimed at."

I do not charge the writer of this article with intentional misrepresentation, but I did not use the above language in so far as it employs the personal pronoun "I." What I said was to this effect:

The measure—that is, the resolution worked out by prohibition bodies and leaders and handed me and Representative Hobson on December 10 and introduced by us in Senate and House on that day—did not stop the making of liquor in homes. The measure did not embrace the idea of preventing gifts of liquor or the carrying of liquor from point to point unless these things were done for commercial purposes. Private making of booze and drinking at home of booze so made were not within the scope of this measure.

As I have already indicated this first measure did not represent all that prohibitionists desired, but all they thought could be secured under the circumstances at that time. Personally I had announced for national prohibition, as the writer correctly states, in my campaign for the Senate in 1912, and I had in mind prohibition of the most sweeping character.

I quote further from the article under discussion:

It was Wayne B. Wheeler who as czar of the Anti-Saloon League members "went the whole hog" and cut out the words "for sale."

This assertion is without foundation. Wayne B. Wheeler, and the other leaders of the Anti-Saloon League, the leaders of the Woman's Christian Temperance Union, and of the other groups and associations engaged in the prohibition movement all fought steadily and stubbornly for this first amendment, limited to the

handling of beverage alcohol for sale, until it was defeated in an intense and exciting contest on the floor of the House.

Compare these facts with the statement of the writer in Collier's that this initial amendment was my original amendment and was shelved. To say that a measure in Congress is shelved means that it is prevented in some way from receiving a vote in either House. When the House took unfavorable action I did not press further the amendment (S. J. Res. 88) in the Senate, although hearings had been held at which almost all the leading prohibitionists appeared. The hearings were held before a subcommittee of the Senate Judiciary Committee. The chairman of that subcommittee was Senator Chilton, of West Virginia, one of the ablest and best-beloved Members of the Senate.

On December 7, 1915, in the first session of the Sixty-fourth Congress, I introduced another resolution for a Federal prohibition amendment (S. J. Res. 30) reading as follows:

[S. J. Res. 30, 64th Cong., 1st sess.]

IN THE SENATE OF THE UNITED STATES,  
December 7, 1915.

Mr. SHEPPARD submitted the following resolution, which was read twice and referred to the Committee on the Judiciary

Joint resolution for submission of a constitutional amendment for prohibition to the consideration of the States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States, as provided by the Constitution:*

"ARTICLE —

"SECTION 1. That the sale, manufacture for sale, transportation for sale, importation for sale of intoxicating liquors for beverage purposes in the United States and, all territory subject to the jurisdiction thereof, and exportation for sale thereof, are forever prohibited.

"SEC. 2. That the Congress or the States shall have power independently or concurrently to enforce this article by all needful legislation."

It will be seen that the provisions in the second section of the first resolution had been dropped. The prohibition forces, as the result of much study and many conferences in which I participated, had concluded not to press the idea embodied in that section of the first resolution vesting the Government with power to make, sell, import, and transport intoxicating liquors for sacramental, medicinal, mechanical, pharmaceutical, or scientific purposes, or for use in the arts, or to make provision for these purposes. The second section of the new resolution dealt, therefore, with a new proposal. It introduced the principle of concurrent jurisdiction. This principle was preserved in the resolution which in the next Congress became the eighteenth amendment. It was the result of the effort of no single individual. It represented the logical development of the attention and thought given the subject by the prohibition leaders of the country. But the writer of the article in Collier's calls the insertion of the provision for concurrent jurisdiction in the final form of the amendment a Wheeler trick. He says the same thing about the fact that the eighteenth amendment did not refer to "purchase" or "use." As a matter of fact, at no time did the prohibition forces seriously contemplate the insertion of these words in the amendment. The writer of the article in Collier's, however, makes the following assertion in this regard:

Another cunning omission from the eighteenth amendment was that of the words "purchase, use." "They said," Senator SHEPPARD explained to me, speaking of the Anti-Saloon League forces, "that if we made the buyer of intoxicating liquor a criminal we would lose a witness against the seller. The idea was that the buyer would not give information against the seller if such information would brand the buyer as a fellow criminal with the seller."

Here we have another misunderstanding by the writer in Collier's. Purchase and use can be penalized under the language of the amendment. When I discussed this phase of the subject with the writer in Collier's I was referring, of course, to the Volstead Act. If this writer had quoted me as follows he would have been correct: "We [meaning the prohibition forces] believed that if we made the buyer of intoxicating liquor a criminal under the Volstead Act, and so forth."

I desire to say here that many prohibitionists are now of the opinion that purchase should be in terms penalized by the Volstead Act. However, the matter is largely covered already. Possession is made a crime by the Volstead Act, with certain exceptions, and possession presumes purchase. Again, a court has held that purchase coupled with an agreement for transportation is punishable by the Volstead law.

When I introduced the resolution on December 7, 1915, nearly two years had passed since I had presented the resolution handed to me and Hobson by representatives of prohibition throughout the Nation on December 10, 1913. The feeling that the words "for sale" should be abandoned was constantly and generally growing. On December 16, 1915, I introduced another resolution striking out the words "for sale" after "exportation." This resolution (S. J. Res. 55) was as follows:

[S. J. Res. 55, 64th Cong., 1st sess.]

IN THE SENATE OF THE UNITED STATES,

December 16, 1915.

Mr. SHEPPARD introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

Joint resolution proposing an amendment to the Constitution of the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:*

"ARTICLE —

"SECTION 1. The sale, manufacture for sale, transportation for sale, importation for sale of intoxicating liquors for beverage purposes in the United States and all territory subject to the jurisdiction thereof, and exportation thereof are forever prohibited.

"SEC. 2. The Congress or the States shall have power independently or concurrently to enforce this article by all needful legislation."

These resolutions of December 7 and 16 went to the Judiciary Committee and were referred to a subcommittee of which Senator Chilton, of West Virginia, was again chairman. I conferred with him at length as to the best wording for the resolution. He had long been an advocate of the elimination of all reference to the words "for sale." Reports from leaders and workers throughout the country, and conferences at Washington with representatives of prohibition, convinced Senator Chilton, the other members of the subcommittee, and myself that the time was opportune for the abolition of the words "for sale" altogether.

As a result of all this Senator Chilton, on December 22, reported the resolution (S. J. Res. 55), amended so as to read as follows:

[S. J. Res. 55, 64th Cong., 2d sess. Cal. No. 799]

IN THE SENATE OF THE UNITED STATES,

December 16, 1915.

Mr. SHEPPARD introduced the following joint resolution, which was read twice and referred to the Committee on the Judiciary

December 22, 1916

Reported by Mr. Chilton, with amendments

Joint resolution proposing an amendment to the Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment of the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:*

"ARTICLE —

"SECTION 1. The sale, manufacture, or transportation of intoxicating liquors within, the importation thereof into, and the exportation thereof from, the United States and all territory subject to the jurisdiction thereof for beverage purposes are hereby prohibited.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

It will be noted that reference to concurrent jurisdiction was dropped from section 2. This was done solely because the committee believed that concurrent jurisdiction existed anyway, and that it was not necessary specifically to confer it.

It will also be observed that this resolution as reported was substantially in the form in which it was introduced by me in the succeeding Congress and in which it finally passed with amendments relating to time of becoming effective and time of pendency before the States.

No further action was taken in the Senate during the remainder of the Sixty-fourth Congress. The work for national prohibition, however, continued with increasing vigor and enthusiasm in almost every part of the country, resulting in larger congressional support than ever for a nation-wide amendment following the elections to the Sixty-fifth Congress.

In the first session of the Sixty-fifth Congress, an extra session, I introduced on April 4, 1917, the resolution (S. J. Res. 17) for a prohibition amendment to the Constitution in this form:

[S. J. Res. 17, 65th Cong., 1st sess.]

IN THE SENATE OF THE UNITED STATES,

April 4, 1917.

Mr. SHEPPARD introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

Joint resolution proposing an amendment to the Constitution of the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:*

"ARTICLE —

"SECTION 1. The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, and the exportation thereof from, the United States and all territory subject to the jurisdiction thereof for beverage purposes are hereby prohibited.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation, and nothing in this article shall deprive the several States of their power to enact and enforce laws prohibiting the traffic in intoxicating liquor."

This resolution was referred to the Senate Judiciary Committee and favorably reported by Senator OVERMAN on June 11, 1917, amended so as to read as follows:

[S. J. Res. 17, 65th Cong., 1st sess. Cal. No. 61]

(Report No. 52)

IN THE SENATE OF THE UNITED STATES,

April 4, 1917.

Mr. SHEPPARD introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

June 11, 1917

Reported by Mr. OVERMAN, with amendments

Joint resolution proposing an amendment to the Constitution of the United States

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:*

"ARTICLE —

"SECTION 1. The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from, the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

As further amended in the Senate and House, this resolution passed both bodies, was ratified by 46 of the 48 States, and became the eighteenth amendment to the Constitution of the United States. Its form as finally adopted was as follows:

ARTICLE XVIII

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

The word "concurrent" was added in the House, being merely a restoration of an idea embodied in former resolutions, to wit, Senate Joint Resolution 30 and Senate Joint Resolution 55.

The resolution was again amended in the House by making the pendency of the amendment before the States seven years instead of six, and by making the amendment operative one year after ratification by the required number of States.

There are no evasions, no subtleties, no tricks in the eighteenth amendment. It developed into its final form by a process of readjustment and change, reflecting the thought and effort and enthusiasm of forces which came to represent an invincible and militant majority of the American people.

When Senator Penrose asked me to accept an amendment limiting the pendency of the prohibition amendment before the States to six years he said that if I would do so he would make no objection to unanimous consent to a time for a vote upon the



resolution. To obtain unanimous consent for a time to vote was the crucial difficulty which confronted me in the management of the measure on the Senate floor. I accepted the Penrose proposal because I felt that the amendment would be ratified long before the six years had expired and because acceptance made a vote sure at that session. That a vote could have been secured at a subsequent session and that ratification would promptly have followed no one familiar with the colossal strength prohibition had attained could reasonably doubt. The writer in Collier attaches a significance out of all due proportion to the Penrose incident. It expedited action, but the eighteenth amendment would have soon come without it. The Penrose incident was described by me in an address before one of the annual meetings of the Anti-Saloon League after the adoption of the eighteenth amendment.

The writer in Collier's was wrong in saying that Senator Penrose promised to permit the measure to be reported from the Judiciary Committee in return for my agreement to the amendment he suggested. What he promised was not to object when unanimous consent for a time to vote should be asked.

Finally the author of the article on the prohibition amendment in Collier's says that I am a resident of Amarillo, Tex. My home is in Texarkana, Tex., over 500 miles from Amarillo. This is a matter of no great importance but the record may as well be straightened out in this respect as well as in the others I have discussed.

Before concluding I desire to call attention to the following paragraph in a United Press dispatch of yesterday which attempts a partial description of the article in Collier's with which I have been dealing:

The bill (meaning the resolution which became the eighteenth amendment) was passed according to SHEPPARD, because the Senate was in a hurry and most of the Senators did not think it would ever become a law.

Nothing I have ever said at any time justifies these assertions. It took nearly four years and four different measures to get the resolution for the eighteenth amendment through the Senate, and a decided majority of the Senators believed it would be ratified. There was no joke about it, no haste, and no confusion. It was the deliberate consummation of an ideal.

Mr. SHEPPARD subsequently said: Mr. President, I desire to have inserted in the RECORD a letter from the United Press Associations showing that they did not intend to refer to me in the dispatch from which I quoted in my speech to-day, but to Mr. William G. Shepherd, who was the author of the article in Collier's, about which I was speaking, and I take pleasure in asking that the letter be printed. The spelling which I gave, to wit, "Sheppard," was taken from United Press dispatch in the Washington Daily News of yesterday. This was evidently an error in printing, but it would lead anyone to believe that I was the "Sheppard" referred to. I have seen the original dispatch sent out by the United Press and it contained the spelling "Shepherd."

THE VICE PRESIDENT. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED PRESS ASSOCIATIONS,  
Washington Bureau, 1322 New York Avenue,  
September 14, 1929.

HON. MORRIS SHEPPARD,  
United States Senate.

DEAR SENATOR SHEPPARD: Upon examination of our files I find that the statement to which you referred in the Senate to-day was attributed not to you but to William G. Shepherd, author of the article in question.

Owing to the similarity of names an error was made in the account as published in the Washington Daily News of yesterday, but I am inclosing a copy of our dispatch as carried Thursday night over our general wires. This will show that the remarks to which you took exception were not attributed to you by the United Press.

We will be greatly obliged if you will be kind enough to correct your earlier statement connecting us with the matter.

Cordially,

RAYMOND CLAPPER, Manager.

RECESS TO MONDAY

Mr. WATSON. I ask unanimous consent that when the Senate concludes its business to-day it take a recess until Monday next at 12 o'clock.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

DAMAGE BY SMELTER FUMES

Mr. DILL. Mr. President, I have two resolutions adopted at a recent meeting by the farmers of the northern part of Stevens County, Wash., concerning the damages being done to their property by the smelter fumes which come across the

international border from Canada. This matter is before the International Joint Commission, and these resolutions deal with that situation. I should like to have them printed in the RECORD at this point, and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Resolution re Trail smelter fumes, read and adopted at an open meeting of the Citizens' Protective Association, held at Northport, Wash., on August 10, 1929.

(There being present about 200 persons, including United States Senator C. C. DILL, Congressman SAM B. HILL, Dean Howes, and Dean Miller, and leading officials of Stevens County and the State of Washington.)

#### RESOLUTION 1

Whereas the International Joint Commission, having before it for consideration the Trail smelter fumes reference, has recently appointed Dean Howes and Dean Miller to conduct an investigation and make a report and recommendations to such commission with a view to concluding at this time a partial, percentage, or crop basis settlement with American property owners injured by gases and fumes from such smelter, the proposed partial settlement not to prejudice final disposition of such controversy; and

Whereas the Citizens' Protective Association, an organization comprising the substantial portion of those affected and interested in the permanent and satisfactory solution of such question, has held a number of meetings and has thoroughly considered this suggested plan of settlement, and has not heretofore had an opportunity to express to Dean Howes and Dean Miller and to the honorable members of the International Joint Commission their conclusions in regard thereto, and believing and trusting that such an expression will be appreciated and welcomed by Dean Howes and Dean Miller and by the honorable members of such commission at this time: Now, therefore, be it

Resolved by the Citizens' Protective Association in open public meeting, That we do hereby heartily commend and approve the expressed desire of the honorable members of the International Joint Commission to bring about such partial settlement at this time, and we desire and do hereby urge upon Dean Howes and Dean Miller and upon the honorable members of the International Joint Commission that such partial settlement embrace the reasonable value of crop, rental, or other seasonal damage for the 4-year period from 1926 to 1929, both years inclusive, such award not to prejudice final settlement and to apply thereon, and with the understanding that such proposed settlement and the report and findings thereon be not finally approved by the honorable members of the International Joint Commission until members of this association shall have first been given an opportunity to object and be heard thereon, in the event same should be deemed not acceptable to those directly concerned.

#### RESOLUTION 2

Whereas it has recently been stated in the public press and from evidently official sources that the Consolidated Smelting & Refining Co. (Ltd.), has now conceded that the destructive gases and fumes from the smelter plant at Trail, British Columbia, can be rendered entirely harmless by the installation of modern and approved methods of gas and fume control and by the conversion and manufacture thereof into by-products of a commercial nature, and that such smelter company has indicated its intention to erect a first unit in the near future, which it is estimated will require 2 or 3 years for completion, after which a further unit or units will be added, and that within 5 years the worth of such experiment will be determined, and that within 5 years it is believed that such destructive gases and fumes will be rendered entirely harmless to property in the State of Washington; and

Whereas the rule of practice and procedure in the courts of both Canada and the United States requires that industrial concerns committing an unnecessary or unwarranted nuisance and damage shall abate same within a reasonable time by the installation and use of modern and approved methods of operation, and, failing to do so within a reasonable time, that such industrial concern promptly cease further operation until such nuisance and damage is completely, effectively, and permanently controlled and abated; and

Whereas we are informed and believe that by the immediate installation of the total required number of units such smelter company, within a period of not to exceed one year, can so control and convert the destructive gases and fumes from such plant as to eliminate further damage in the State of Washington: Now, therefore, be it hereby

Resolved by the Citizens' Protective Association in open public meeting, That we respectfully request Dean Howes and Dean Miller, and do hereby urge upon the honorable members of the International Joint Commission, that they recommend at this time that such smelter company be required to commence the immediate construction and installation of the total required number of units to completely, permanently, and effectively control and convert such destructive gases and fumes now invading and committing damage in the State of Washington, within a period of not to exceed one year from this time, and if it be found that



at the end of one year such destructive fumes and gases are so controlled and converted that the total actual damage to property owners in the State of Washington be then determined and speedily settled; and that if at the end of one year from this time it be discovered that such destructive gases and fumes are not so controlled and converted that such smelter company be ordered by the Canadian Government to forthwith cease further operation of such Trail smelter plant until such time as the required number of units are first installed and ready to operate, so as to insure permanent cessation of damage in the State of Washington; and be it hereby further

*Resolved*, That we do hereby present and urge the above plan as the most definite, lawful, just, and permanent solution of this controversy, and we do hereby respectfully inform Dean Howes and Dean Miller and the honorable members of the International Joint Commission that the above-mentioned proposal of the smelter company is, in our judgment, so vague, indefinite, unjust, and impractical, as to be wholly unacceptable to this association; that this destruction has now continued with impunity for more than four years, an entirely unreasonable time; that such smelter company has consistently avoided the control and conversion of such destructive gases and fumes by methods which we have repeatedly insisted and which it is now admitted by the smelter company were and are feasible; that our people can not and should not be expected or required to further endure this situation for an indefinite or unreasonable period of years until such company installs units from time to time to meet its program of expansion and meanwhile be permitted to establish a profitable market for its by-products, at the expense of property owners in the State of Washington—a situation which, if officially countenanced, will mean the abandonment of property in the fumes area, the depopulation of northern Stevens County, the loss of taxable values, the shifting of tax burdens, with no substitution for resources destroyed, the economic ruin of the city of Northport and other communities, the total loss of market values, and irreparable loss and injury to the people of our county and State.

#### LIABILITY FOR DAMAGES FROM SMELTER FUMES (S. DOC. NO. 25)

Mr. DILL. Mr. President, I hold in my hand a rather complete study of the law, both of the United States and of Canada, applying to the destruction of property by smelter fumes. It is not very long; it is extremely valuable from the standpoint of the consideration of the damages to be estimated, and I ask unanimous consent that it may be printed as a Senate document.

The VICE PRESIDENT. Without objection, it is so ordered.

#### ADDRESS BY MR. WADE H. ELLIS ON PROHIBITION AND PUBLIC DUTY

Mr. SIMMONS. Mr. President, by request, I ask that a certain address upon Prohibition and Public Duty, made by Mr. Wade H. Ellis before the Institute of Public Affairs, University of Virginia, Thursday, August 15, 1929, appear in the RECORD.

I have not had the opportunity or time to examine this article thoroughly, and I therefore introduce it by request.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is here printed, as follows:

About six weeks ago, under the auspices of the local society of the Sons of the American Revolution, I delivered an address on the present crusade for law enforcement. It was broadcast over the radio from Washington and widely published throughout the country. The facts set forth showing the amazing growth of crime in the United States as compared with every other civilized nation, were derived in part from the report of the committee on law enforcement of the American Bar Association, of which I was a member, and which had made a study of the subject both in this country and in Europe, extending over a period of several years. In part, also, the statistics presented were taken from a very remarkable book entitled "The Criminal and His Allies," written by Judge Marcus Kavanagh, of Chicago, who was also a member of this committee.

In that address there were enumerated some of the most obvious causes of lawlessness in this country, and certain specific remedies were proposed as likely to inspire greater respect for our legal institutions and speedier punishment of offenders.

The one suggestion, however, which attracted most attention, had to do with the enforcement of prohibition, and it is this particular feature of the situation which I should like more fully to discuss and elaborate before your institute to-night. It was expected at the time that once fairly submitted to the country the plan proposed would provoke the liveliest controversy; but the extent of the interest aroused and the mental temperature engendered in many quarters have quite exceeded the expectation. In brief, plain words, the suggestion was this: After stating the simple fact, which everybody knows, that the liquor laws are being violated in many sections of the land, and that the violations are upheld and supported by local public sentiment, and after pointing out that the eighteenth amendment confers precisely the same power, and imposes precisely the same duty upon each of the 48 States that it does upon Congress, I proposed that the American people put this concurrent obligation into effect. In other words, I suggested that the Federal Government, without relinquishing any of its powers and without curtailing in the least particular its enforcement

of prohibition in every aspect of national or interstate concern, such as the importation from other countries, the shipment into other States, or even the manufacture when designed for consumption beyond State lines, should put squarely up to the States themselves the primary duty of suppressing the local traffic in intoxicating liquors. I stated that "in my judgment such a bold stroke would have an immediate and electrical effect all over the country"; that the people of every State in the Union would realize for the first time that the enforcement of prohibition, which they now look upon as a matter solely of Federal concern, with which they have nothing to do except as spectators, is primarily their business, and when once they realize that fact they will do something about it.

This prediction is apparently already justified. It was, in fact, all or more than was expected. If we can ever set the people thinking on any subject they are certain ultimately to think right. That they have in this instance already begun to think is evidenced by the country-wide discussion which has since taken place on the subject. First came the now famous letter of Mr. George W. Wickersham to the conference of governors at New London, Conn., on July 16, which contained a somewhat different proposal along the same general lines. The distinguished source of this statement, coming as it did from the chairman of the National Commission on Law Enforcement, and from a man so widely known and respected by the American bar and the American people, at once broadened the scope of the discussion and focused popular attention upon it. Then came pronouncements from one or more governors of the so-called wet States, who resented the implication of any duty whatever upon the individual Commonwealths which make up the Nation to do their share in the enforcement of prohibition. Next came some honest doubts expressed by several prominent prohibitionists, who were of the opinion that any such plan would rather retard than promote law enforcement, and later still some very frank views were put forth by many Members of the Senate and House, and others of national reputation, some of whom supported and others of whom opposed such a suggestion as a solution of the liquor problem. On the whole, however, it does appear that the greater number of thoughtful citizens who have expressed themselves on the subject, including both those who wish well for prohibition and the more reasonable of those who oppose prohibition, as well as the press on both sides of the question, are inclined to support the proposition to put the responsibility for local enforcement upon local authorities as offering some real hope of relief from the present intolerable situation.

Thus this new proposal, whether good or bad, is fairly presented for debate. Whoever writes or speaks for it or against it owes a duty to his readers or his hearers to state frankly the real purpose of the stand he takes. On a subject so acutely controversial as prohibition we are entitled to know the honest sympathies, even the prejudices, of every man or woman who advocates or opposes any suggested solution of the problem. It is a case in which every witness must qualify, so that the jury, composed of his fellow citizens, may know just what credence to give to his testimony. That rule applies here and now. If I earnestly and sincerely prefer to see prohibition succeed, you will consider with more respect and attention any suggestion I may make to that end. If I earnestly and sincerely prefer to see prohibition fail, you may still hear and examine my proposal for its enforcement, but you will discount the weight of my argument by 50 per cent at least, and you will keep your fingers crossed while you listen. Very well. Here's the truth, the whole truth, and nothing but the truth.

When the eighteenth amendment was before Congress and the several States for adoption I was opposed to it. I thought it was coming before the country was ready for it, and I thought it was bolted down too precipitately for popular digestion. The other day a friend sent me an interesting extract from the letters and diary of Rutherford B. Hayes—the soldier, the governor, the President of the United States. The date was October 9, 1883—election day in Ohio.

Says General Hayes: "I shall not vote for the prohibition amendment [meaning the State amendment], but I would like to see a good, wholesome expression of temperance sentiment." Then, taking his thought no doubt from the old axiom of a democracy that it is difficult to enforce any sumptuary legislation that is not supported by public sentiment, General Hayes expresses the opinion that prohibition could not then be enforced in Ohio, and concludes the entry in his diary as follows: "Personally I do not resort to force—not even the force of law—to advance moral reforms. I prefer education, argument, persuasion, and, above all things, the influence of example."

I felt in 1918 very much as Rutherford B. Hayes felt in 1883. I would have been glad to see the liquor traffic abolished, but I did not believe, in the face of opposition constituting an overwhelming majority of the people in some places and a militant minority in many places, national prohibition could be so enforced, for many years at least, as to promote respect for law and set an example of orderly government.

But the eighteenth amendment was adopted. It was passed by far more than three-fourths of the States and by far more than two-thirds of Congress. It is the supreme law of the land. It may have been born ahead of time, but it is going to live, and we will have to live with it. The practical is always a little tardy in catching up with



the ideal; but the ideal holds. I do not believe if Rutherford B. Hayes were living to-day he would vote to repeal the prohibition amendment. Certainly I would not. More than this, I believe there are countless thousands of American citizens who were opposed to the adoption of that amendment who would not now favor its repeal.

If anything could be said, morally, physiologically, or economically in favor of the use of intoxicating liquors for beverage purposes, we might foresee the possibility of a reversal of the judgment of the people of this country on prohibition. Intoxicating liquors are not necessary as a food, even if they have any food value. They are still lawfully procurable as a medicine, if they have any medicinal value. Therefore, independently of all the problems that beset our day, their day is doomed. Every man and woman who believes in the progress of civilization, who believes that the world will get better and not worse, must accept the fact that the time will come when the use of intoxicants will be completely abandoned by the human race. In other words, tested strictly by the merits of the question, the ultimate acceptance of prohibition is inevitable. But of more immediate importance is the result reached when we apply the test of American psychology and American history.

Examined in this light two interesting and significant facts appear. First, there has already set in among the more conscientious and serious-minded of our people, regardless of their opinion on the merits of prohibition, a tendency to adjust their habits and reconcile their convictions in conformity with their duty—to observe the law. In the private homes of such people and in their social gatherings there is undoubtedly to-day less drinking than there was two years ago. In the Capital of the country this change of attitude has been apparent on every side, and the tendency among the same class of citizens has been marked in every section of the land. Second, the unique historical fact which presages the permanency of prohibition is this: The American people have put many amendments into their Constitution, but they have never taken one of them out. Indeed, it is remarkable to note that we as a nation have never adopted any policy of major importance, from the Declaration of Independence to this hour, that could or would be reversed to-day.

Thus, there is nowhere to be found any premise on which to base the expectation that the eighteenth amendment will ever be repealed, and therefore we must plant every discussion of the subject upon the conclusive presumption that prohibition is here to stay. In these circumstances, what is the best thing to do about it? Obviously the best thing in the interest of good government is to have it respected and obeyed. What is the best way to accomplish this? Obviously the best way is to enlist public sentiment, and especially a majority of the people in every part of the country, in favor of the law. What is the best way to do this? Obviously the best way is to enlarge the number of those who are interested in the law's enforcement.

Now on the prohibition question, I believe the people of this country may well be divided into three classes. First, there are the earnest, conscientious dries, all of whom believe in the strict enforcement of prohibition, and some of whom would enforce it if it called out the entire Army and Navy, and took every dollar of Federal revenue. Second, there is the great body of law-abiding citizens, many of them more or less indifferent, many of them quite willing to have left the liquor question entirely to local control; but none of them who would ever consent to an unlawful and unregulated traffic. Third, and finally, there are the extreme wets, who simply want their liquor, and who believe that it is just and proper to join hands with the bootleggers in defying the law. I believe that fully 95 per cent of the people of this country belong to the first and second of these classes. I do not believe that 5 per cent of the American people, anywhere, would want to see a totally unrestrained bootleg government—a wholly untaxed, unlicensed, uncontrolled, and irresponsible traffic in intoxicating liquors.

Now, what is the best way of uniting the first and second of these classes, constituting an overwhelming majority, against the third, constituting a very small minority? In my judgment, the only feasible way is to present to every State and every community where the law is now flouted, the simple alternative of enforcing prohibition or submitting to the supremacy of an outlaw. Happily, the legal situation offers just this opportunity. The Constitution of the United States and the acts of Congress passed in pursuance thereof, are the supreme law of the land. No State legislature, and no municipal council, in any part of the country, can pass any statute or ordinance legalizing the liquor traffic or providing for license, taxation, or any regulation whatever that would not be immediately nullified by the courts. No executive officer in any State, county, or municipality throughout the country, could make any terms with those engaged in this traffic without subjecting himself to the danger of entering a conspiracy to violate the law.

Therefore, when the alternative here suggested is presented to the people of any State or community, what would be their natural reaction? Let us take a State like New York and a city like its chief metropolis. In that State the people by deliberate vote have repealed the prohibition-enforcement statute. In that city there are to-day thousands of speak-easies and night clubs which are openly and boldly selling intoxicating liquors, and there are also thousands of policemen

who are notoriously runners and patrons of these resorts. Putting to one side the bootleggers and the purveyors of intoxicating liquors, what is the present attitude of the great body of the public in that State and that city? Let us assume that the majority of the people of New York are against prohibition. But what is it they want? It is perfectly clear that they want local option. They want a legalized and regulated liquor traffic, either through a State dispensary or a return to the brewery, the distillery, and the saloon. At this moment many of them believe that this solution of the problem is still attainable; that we are merely marking time on the liquor question; that prohibition will fail and will be repealed. In this interim, therefore, being otherwise law-abiding citizens, they have become mere witnesses to the attempt of a single outside authority, the Federal Government, to enforce local prohibition. As such respectable citizens they satisfy their consciences by the reflection that the law is not their law, that the enforcing authorities are not answerable to them, and that they have no personal duty or responsibility in the matter. Thus many of them buy from the bootleggers, patronize the night clubs, and look upon prohibition as a foreign intruder in their midst. But suppose they were brought suddenly to realize, first, that there is no chance of the repeal of the eighteenth amendment; second, that there is no way, so long as that amendment stands, to circumvent it by regulating the liquor traffic; and, finally, that the Federal Government intends to wholly withdraw from the enforcement of prohibition in New York in so far as it concerns the purely local traffic. What would the people of that State do about it?

Let us consider the question simply as a matter of human nature, and in sole reliance upon the character of American citizens. What would the people of New York do when squarely confronted with this emergency? Would they permit the continued sale of intoxicating liquors—openly conducted; making enormous profits; paying no revenue to the State or the city; controlled by no license, or even closing hours, and becoming bold, arrogant, and insufferable? Would the dries and the law-respecting wets join in reenacting an enforcement statute in the State of New York, and put the bootlegger out of business? I believe they would. There is nothing else they could do.

But there have been certain criticisms of this plan which, in all honesty and fairness, I want to notice.

First, it has been said that any action by the Federal Government, through resolution or statute of Congress, withdrawing the use of appropriations for the purely local enforcement of prohibition from those States which do not themselves attempt to execute the law, would itself be unconstitutional. With sincere respect, I do not believe there is any merit in this suggestion. Congress has a perfect right to make no appropriations at all, or to spend the public funds where they will do the most good, and not waste them where they will do no good at all. But how could the constitutional power be tested? No one can bring mandamus or injunction against Congress. On the other hand, if a cause of action existed, who would bring it? Would the dries? If they did, and the act were declared unconstitutional, the result might be that there would be no enforcement at all in any part of the country. Would the wets? If they did, they would secure small sympathy from the courts in an effort to prevent the aid of national authority in the local enforcement of prohibition in Texas or Indiana or Vermont, simply because the same money was not spent in New York or Maryland or Wisconsin.

Second, it has been said that there is no duty upon the States to enforce prohibition under the eighteenth amendment. You heard this claim strongly propounded last night by one of the ablest and most attractive of our governors—Albert C. Ritchie, of Maryland; and I must ask you to let me depart for a moment from my prepared address to make a brief answer to one or two of the suggestions delivered in your presence 24 hours ago.

Governor Ritchie says that there is no duty whatever, moral or legal, upon the States, or any of them, to enforce prohibition. At the very outset I respectfully submit that our whole conception of orderly government is based upon the obligation of every individual to obey the law and every public authority to enforce it. But let us examine this question first as to the moral duty of the States. On March 12, 1918, the people of Maryland, in the way provided by their own laws, deliberately ratified the eighteenth amendment. Surely they did that in good faith. Surely they did not intend at the time to repudiate the law as soon as it was enacted. Is it possible that the people of Maryland by ratifying the eighteenth amendment meant really to say, "We will help make the law, but we won't help enforce it"? There are only two States in the Union which refused to ratify the prohibition amendment. These were Rhode Island and Connecticut. Now either of those States might with some consistency assert the moral right (although not the legal) to abstain from participation in executing this national policy; but surely one of the States which joined in establishing the policy can not expect applause from the country if her people renounce their own work.

Next let us examine the legal duty of the State in this respect. Governor Ritchie cites the case of the United States v. Lanza (260 U. S. 373) as authority for his view. That case holds merely that where there is both a State law and a Federal law against certain offenses in connection with prohibition one accused of the violation of both such



offenses may be punished for each. Of course, this is true, for otherwise if one of the States imposed milder, or merely nominal, penalties for violating a local prohibitory statute than were imposed by the Federal law for the same offense, all lawbreakers in that State would rush to the local courts to plead guilty, and thus secure immunity from Federal prosecution. But the Lanza case contains no language whatever which overrules the doctrine announced in the national prohibition cases (253 U. S. 250), that the eighteenth amendment is operative throughout the entire territorial limits of the United States and binds all legislative bodies, courts, and public officers.

In fact, the later case restates and approves the doctrine of the earlier one. Nor does the case relied upon overrule the long line of decisions by the Supreme Court of the United States to the effect that the Federal Constitution and the laws passed by Congress in conformity therewith become a part of the laws in each and all of the States of the Union precisely to the same extent as if they were a part of the State constitution and the State statutes. Now, of course, it may be that the people of Maryland have honestly changed their minds about prohibition; that although they ratified the eighteenth amendment 10 years ago they are now opposed to it. Of course, they have a perfect right to change their minds, and they have a perfect right to appeal to the people of other States to do likewise and to seek the repeal of that amendment. But so long as the law stands they have no right to nullify it. They are in the same situation as that of a private citizen who has made a lawful contract. He has a right to ask the other party or parties to the contract to abrogate or amend it; but so long as it is in force, and especially so long as his name is signed to it, he has no right to violate it.

But Governor Ritchie says: "We do not try to nullify the Federal law. It is the duty of the police in Baltimore to arrest for violations of such law (when the offense is committed in the officer's view) and to hold the offender for the Federal law." Then he proceeds to state that the people of Maryland do not propose at their own expense to enforce prohibition and do not propose to have their public officials corrupted by adopting local enforcement measures.

Suppose all this is well founded and well stated. Suppose, further, that there is no enforceable obligation, moral or legal, upon the State of Maryland to suppress the local traffic in intoxicating liquors. What would happen in Maryland if the Federal Government, by appropriate action, should determine that from and after a certain date no Federal funds would be expended and no Federal agents would be employed to prevent the local sale and consumption of intoxicating liquors in that State?

Would not Governor Ritchie himself, who, above all else, is a good American and a conscientious executive, be the first to realize the importance of protecting the people of his State from the hundreds of saloons that would open boldly on every street in Baltimore and the thousands of road houses that would sell intoxicating liquors to drivers of automobiles on every highway in Maryland? Would not the people of that State, when confronted with the danger to life and property which might come from an uncontrolled and uncontrollable liquor traffic, prefer to abandon finely spun theories in favor of wholesome practices?

Upon the general proposition of State duty in prohibition enforcement I have already shown that precisely the same obligation, imposed by the same solemn mandate, rests upon each and every one of the 48 States that rests upon Congress.

The eighteenth amendment declares that the manufacture, sale, transportation, importation, and exportation of intoxicating liquors for beverage purposes within, into, or from the United States and all territory subject to its jurisdiction is prohibited. Then the amendment further declares that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation." Of course, it may be said that the word "power" does not necessarily impose a duty. But this applies as well to Congress as it does to each of the States. The obligation is exactly the same in the one case as it is in the other—no more and no less. So the States that voted for and the States that voted against the prohibition amendment are in precisely the same situation and owe precisely the same duty of allegiance to the paramount law of the Nation. All this has been explicitly decided by the Supreme Court of the United States in the national prohibition cases to which I have referred. The Supreme Court held that the first section of the eighteenth amendment "is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers, and individuals within those limits, and of its own force invalidates every legislative act—whether by Congress, by a State legislature, or by Territorial assembly—which authorizes or sanctions what the section prohibits."

As to the second section of the amendment, conferring concurrent power to enforce the article upon the Congress and the States, the Supreme Court has held that "it does not enable Congress or the several States to defeat or thwart prohibition, but only to enforce it by appropriate means."

Fifty years earlier the Supreme Court in a leading case (100 U. S. 483) used this significant language:

"It must be borne in mind that the Constitution, laws, and treaties of the United States are as much a part of the law of every State as its own local laws and constitution."

Thus it appears that even if there were no compulsion either upon Congress or the States to pass any enabling statute for the enforcement of prohibition; even if Congress and the several States, without transgressing any impelling duty, could have completely ignored the eighteenth amendment and left it to stand in the Constitution with no machinery provided for its execution, yet when Congress did act, and did pass enforcement laws, those laws became as binding as if they were themselves a part of the Federal Constitution, and as binding upon the States as if they were a part of the State laws. To refuse to support and enforce them by appropriate local means, therefore, is to thwart, oppose, and defy the Constitution and laws of the United States. If that does not violate the duty of a State, it is difficult to find any action that would.

Third. It has been said that if the Federal Government withdrew from the business of enforcing local prohibition in those States in which the national policy is disregarded, the people of such States might then undertake to regulate the liquor traffic within their own limits. This suggestion is the height of folly. It contains a buzz saw which no legislative, executive, or judicial officers would be inclined to disturb. The Supreme Court has put upon such a revolutionary proposal a quietus in advance. In construing the eighteenth amendment the court says not only that it is operative throughout the entire territorial limits of the country, and all places subject to its jurisdiction, but that "it binds all legislative bodies, courts, public officers, and individuals within those limits, and of its own force invalidates every legislative act—whether by Congress, by State legislature, or by Territorial assembly—which authorizes or sanctions what the section prohibits."

What good, therefore, would it do for one of the States to attempt to license saloons, or tax or regulate the liquor business? They could not collect the license or the tax, and the regulation would be utterly unenforceable. Of course, the Federal courts, if such legislation came before them, would pronounce it unconstitutional. But even the State courts would be required to take the same action, for Article VI, clause 2, of the Constitution of the United States, after declaring that the Constitution and laws made in pursuance thereof shall be the supreme law of the land, uses these plain words: "And the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Nor does it appear that any executive officer in any State could wisely or safely become a party to an attempted legalizing of the liquor traffic. Such an act would directly violate his oath of office, for Article VI, clause 3, of the Federal Constitution provides not only that Senators and Representatives in Congress, and members of the several State legislatures, shall be obligated to uphold the supreme law, but that "all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution." But some one may say that if the Federal enforcement of local prohibition is withdrawn from those States which themselves refuse to execute the law, such States or political subdivisions of them, might, without license or regulation of the liquor traffic, accomplish the same end by setting up a system of periodical fines against saloonkeepers and bootleggers, and thus, in effect, control the traffic and, at the same time, enlarge the public revenues. Such a sinister prostitution of government would end in disaster. In the first place, every individual who is a party to it, whether a public official or a private citizen, would violate the Federal law. In the next place, the very offenders who were fined in the State or local jurisdictions, would not secure the protection for which they had paid; for under the plan here proposed the National Government would still retain full authority under the Federal law to punish for local infractions, and these same offenders could be indicted in the Federal courts and sent to jail. In fact, the only result of the payment of fines in the local jurisdictions would be to make easier their apprehension and conviction under the Federal law.

Fourth. The suggestion has been made in criticism of the plan here proposed, that in putting the primary responsibility up to the States to enforce local prohibition, a difficulty would arise in those States which have enforcement statutes, but which have also one or more particular cities which are notoriously wet, and defiant of the law. In this connection some one has asked what would you do about Chicago or Philadelphia? That question, I think, suggests the counsel of despair. If Chicago is not a part of Illinois, and Philadelphia is not a part of Pennsylvania, but each is a sui generis community, which only Federal authority can govern, then our whole dual system of 48 separate sovereignties within one union, which has stood the test of long experience and is the admiration of the world, must be confessed a failure, and abandoned. It is the duty of Illinois to clean up Chicago, if the people of Chicago won't do it for themselves. It is the duty of Pennsylvania to see that Philadelphia obeys the prohibition laws of that State. If neither Illinois nor Pennsylvania will perform this duty, then they are in the same position as if they had



never passed any prohibition statutes; and the Federal Government, in all matters of mere local enforcement, could well leave them to work out their own salvation. The same public sentiment, which, under like circumstances, would be aroused in New York, would unite the forces of law and order in Illinois and Pennsylvania, and drive out of business the mere traffickers in intoxicating liquors which constitute so small a minority of their populations. I do not believe, after the withdrawal of Federal aid or cooperation, they would wait until conditions became worse, but that immediately they realized the absolute necessity of either suppressing the bootleggers or submitting to their domination, without any means of regulation or control, they would choose what some might call the lesser of two evils and enforce the law. Indeed, I make bold to say that there is not a State in this Union, no matter what may be the present sentiment of its people on the subject of prohibition, which when once confronted by the alternative here described, would not right-about-face on the first call to arms.

Fifth, and finally. The suggestion has been made that a better way to induce all the States to perform in greater measure the duty of punishing liquor violations of a purely local character is to bring about an agreement between the Federal and the State Governments, by means of which the whole domain of prohibition enforcement would be divided between the two jurisdictions, the Federal Government undertaking to prevent the importation, manufacture, and shipment of intoxicating liquors in interstate commerce, and the State governments undertaking internal police regulations to prevent sales, saloons, speakeasies, etc. Of course, if the whole subject of prohibition enforcement could be at once divided between national and State authorities, and if each and every one of the States would immediately proceed to enact, and to strictly enforce, prohibitory laws for the suppression of the local traffic in intoxicating liquors, the whole problem would be solved. But this assumes a disposition precisely contrary to the one which actually prevails. More than this, the plan suggested would have the governors of the several States take the initiative in making an agreement with the Federal Government, apportioning the duty of prohibition enforcement, and would have the State laws and the Federal law modified in conformity with this agreement. I venture to suggest one or two considerations which ought to be borne in mind in the event that this particular plan should be followed in giving effect to the general proposition of requiring the States to bear the main brunt of the burden in the enforcement of the purely local features of prohibition. In the first place, I fear it would be difficult to get all the governors of all the States to bind their people and their legislatures to an agreement for the division of prohibition enforcement. Of course, until all the States were so committed, assuming the feasibility of some sort of treaty between them and the National Government, a great deal of time might well elapse, during which the present conditions would be prolonged. In the next place, if one governor and one legislature in a State should undertake this compact, and the next governor and legislature should break it, I do not quite see how it could be enforced. But more important than any other consideration, in my judgment, is the imperative duty upon Congress and the Federal Government to maintain all their powers with respect to prohibition, and to relinquish none of them.

It would be quite unfortunate if Congress should surrender some part of its obligation to enforce a national policy upon the promise that some other authority would perform that obligation, even though the promise were evidenced by statutes in each and all of the States. It might lead to confusion, and an actual hiatus in the enforcement of prohibition in all its aspects, Federal and State, if one or more of the States should repeal the statute which contained their part of the duty, and Congress should be suddenly required, by extraordinary session or otherwise, to remedy the defect and reexercise Federal jurisdiction to its fullest capacity. I can not help feeling that the wisest and safest course is for the initiative to be taken by Congress, and so taken that the result can be achieved without the risk that might follow a modification of the Federal law.

The most direct and effective way, it seems to me, to accomplish the end desired is for the executive and legislative branches of the Federal Government, without parceling out to the States, or surrendering by the United States, any part of the whole jurisdiction over prohibition enforcement, to simply withdraw all aid and activity in the suppression of purely local infractions of the law from those States which either have no enforcement statutes, or make no attempt to enforce the statutes they have. If this is done, it should be done in such a clear, courageous, and unmistakable way as will serve notice upon every State and every community that they and they alone are primarily responsible for the arrest and punishment of bootleggers, the closing of saloons and other places where liquors are sold, and the casting out from among them of all the petty traffickers in intoxicants who are now defying the law under the protection of a complacent local sentiment.

If once the people of the United States are brought to see, first, that prohibition is here to stay; second, that the liquor traffic can not be legalized or regulated; and, third, that every State and every community must decide between suppressing that traffic or permitting it to continue without any control or restraint whatever, the question will be

settled on the side of law and order. In other words, all the Federal Government has to do is to stand firm, and the States in self-defense will enforce local prohibition. In any event, we have nothing to lose by putting the issue to the test.

I am glad to have had the first word on this subject, but I have no ambition or desire to say the last. The chief end I have in mind is to arouse the thought and conscience of good citizens. It is from the light that comes by striking fire on the anvil of discussion that the real truth is ultimately found. In all this debate about prohibition, and in all the study and investigations that are now in hand, or may hereafter be undertaken, there is only one thing of which I am sure, and that is, that neither prohibition nor any other law will ever be fully enforced until the people get back of it.

Finally, as a great Virginian would have put it: "I hold these truths to be self-evident."

Whatever induces the people to shirk or forget their relation to government is a bad thing; whatever brings home to the people their local and personal responsibility for law enforcement is a good thing.

#### BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HAYDEN:

A bill (S. 1695) providing for the acquirement by the United States of privately owned lands situated within the Coconino or Sitgreaves National Forests, Ariz., by exchanging therefor lands on the public domain within said State; to the Committee on Public Lands and Surveys.

By Mr. CAPPER:

A bill (S. 1696) for the relief of Frank B. Lindley (with accompanying papers); to the Committee on Claims.

By Mr. FLETCHER:

A bill (S. 1697) for the relief of Peter C. Haines, jr.; to the Committee on Military Affairs.

A bill (S. 1698) granting an increase of pension to Irene O. Tustison; to the Committee on Pensions.

#### AMENDMENTS TO THE TARIFF BILL

Mr. BLEASE submitted two amendments intended to be proposed by him to House bill 2667, the tariff revision bill, which were ordered to lie on the table and to be printed.

#### REVISION OF THE TARIFF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

Mr. FLETCHER. Mr. President, yesterday the Senate passed over paragraph (d), page 290, under the heading "Plant Quarantine." I do not wish to press that amendment for consideration now, but I do wish to give notice that whenever we reach that paragraph in consideration of the pending bill I want to be heard on it, and I think I shall be able to convince the Senate that the amendment proposed by the committee ought not to be agreed to. I desire to ask the chairman of the Committee on Finance not to have the amendment taken up in my absence without giving me an opportunity to be heard before it shall be disposed of.

Mr. SMOOT. I desire to say that I shall be glad to comply with the request of the Senator from Florida.

Mr. KING. Mr. President, will my colleague yield to me?

Mr. SMOOT. I yield.

Mr. KING. I was about to observe that I think that amendment was passed over at my request.

Mr. FLETCHER. It was also passed over at my request.

Mr. KING. I am perfectly willing to have it taken up now, so far as I am concerned.

Mr. SMOOT. The Senator from Florida asked only that the amendment go over and not be acted upon in his absence. I told the Senator that I was perfectly willing that the request should be complied with; and I will say to him that if we are going to act upon the amendment and he shall be anywhere in the city at the time I shall get word to him. I do not know how soon we shall consider the amendment, but the Senator from Florida is generally in the Senate anyway.

Mr. FLETCHER. I will be here; there will be no doubt about that; but sometimes we go to lunch or are called out for conference, and I might be out of the Chamber when the amendment was taken up. I merely ask that I be notified when that shall be done.

Mr. President, I wish to ask to have inserted in the RECORD a telegram which I have received on this subject; and I am satisfied it is merely a forerunner of numerous others which will come when it is understood that the proposition involved in the amendment has been made. I think the adoption of the



amendment would mean the placing of a very serious and dangerous restriction on the power and authority of the Secretary of Agriculture with reference to imposing quarantines on infested or infected fruits, bulbs, or plants which come in from foreign countries. We are spending many millions of dollars every year, and we have got to spend many millions more, to combat pests and injurious and destructive diseases in plants and plant products which are frequently brought into this country from foreign countries. I do not, therefore, want to restrict the powers of the Secretary of Agriculture as this amendment would restrict them if it should be adopted to the consideration of particular shipments at particular times. It would be almost impossible for the Secretary of Agriculture to establish inspection agencies in all parts of the country and look out for every package that might come in from some foreign country that would endanger our fruit and vegetable industries; but, where it is known, for instance, that in one country serious pests and diseases exist in plants and plant products that would be sufficient information to the Secretary of Agriculture at once to establish and impose a quarantine against such plants and plant products from that country, without imposing upon him the necessity of ascertaining that a particular shipment was infected, and therefore should be excluded.

I hope the Senate will see the wisdom of rejecting this amendment. I can not conceive that the Secretary of Agriculture himself approves of it. I know nothing about how it came to be placed in the bill, although I can understand how it happened to be proposed by the committee. I can understand, of course, that the importers of plants and plant products from foreign countries would like to have them come into the United States and be subject to inspection only at the port where the particular shipment is received; but I am sure that it would be very dangerous and an unwise restriction for Congress to impose upon the power of the Secretary of Agriculture under the plant quarantine law of 1912. Let us keep the law in existence as it is. I hope the Senate will not agree to this proposed amendment.

The VICE PRESIDENT. Without objection, the telegram referred to by the Senator from Florida will be printed in the RECORD and lie on the table.

The telegram is as follows:

NEW YORK, N. Y., September 13, 1929.

Senator DUNCAN U. FLETCHER,

Senate Office Building:

On behalf of our large Florida interests may we urge your support toward the elimination of paragraph 306 (d) of the pending tariff bill, which, if enacted, will mean the breaking down of our whole quarantine system and again leave our doors open for a further invasion of foreign insect pests and diseases as a further menace to our great agricultural and horticultural activities.

F. RYNVELD & SONS.

Mr. BLACK. Mr. President, I desire to have inserted in the RECORD, if possible immediately following the telegram of protest which was offered by the Senator from Florida [Mr. FLETCHER], a letter from the secretary of agriculture of Alabama protesting against the same amendment to which the Senator from Florida referred.

There being no objection, the letter was ordered to lie on the table and be printed in the RECORD, as follows:

STATE OF ALABAMA,

DEPARTMENT OF AGRICULTURE AND INDUSTRIES,

Montgomery, September 12, 1929.

Senator HUGO BLACK,

Senate Office Building, Washington, D. C.

MY DEAR MR. BLACK: I assume that you have seen the amendment which the Senate Finance Committee has put into the new tariff bill with respect to quarantine No. 37. This amendment will lessen the authority of the plant quarantine and control administration and will allow quite a few plants and bulbs to be brought into the United States from foreign countries which are now prohibited. The quarantine prohibiting the entry of these fruits, plants, and bulbs is for the protection of our agricultural interests.

The United States Department of Agriculture has done a wonderful work in controlling foreign pests which have entered this country and also in keeping foreign pests out of this country since the plant quarantine act was approved August 20, 1912.

At the present time we are putting up a very strenuous fight against the Mediterranean fruit fly, and should this amendment be passed by Congress, it will open our doors to many more such serious pests.

We made a great fight here in the Southern States against citrus canker and it is now practically eliminated. This was a foreign pest which was imported; and if we are not allowed to control the importation of foreign citrus fruits into this country, we are likely to have reinfection.

Practically all of our major plant pests have been imported from foreign countries and we sincerely hope that you will do all that you can to keep the plant quarantine act just as it is at the present time.

Assuring you that we shall appreciate anything that you can do to help us to prevent the passing of this amendment, I am,

Yours very truly,

SETH P. STORRS,

Commissioner Agriculture and Industries.

Mr. McMASTER. Mr. President, a day or two ago I gave notice that the consent of the Senate would be asked for the consideration of Senate Resolution 113, which deals with the subject of obtaining information in possession of the Tariff Commission relating to the tariff schedules. In view of the fact that one or two Senators are absent who will not return until next Wednesday and who have expressed a desire to be present when this resolution shall be considered, I ask, if it be agreeable to the chairman of the Committee on Finance, that the resolution may go over until next Wednesday.

Mr. SMOOT. I have no objection to that course, Mr. President.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. COUZENS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The absence of a quorum being suggested, the clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Goff	King	Sheppard
Barkley	Goldsborough	La Follette	Shortridge
Bingham	Gould	McKellar	Simmons
Black	Greene	McMaster	Smoot
Blease	Hale	Metcalf	Steiwer
Brock	Harris	Moses	Thomas, Idaho
Broussard	Harrison	Norris	Thomas, Okla.
Capper	Hastings	Nye	Trammell
Connally	Hatfield	Oddie	Vandenberg
Couzens	Hawes	Overman	Walcott
Deneen	Hayden	Patterson	Walsh, Mont.
Dill	Hellin	Pine	Warren
Fess	Howell	Pittman	Waterman
Fletcher	Johnson	Ransdell	Watson
Frazier	Jones	Robinson, Ark.	Wheeler
George	Kean	Robinson, Ind.	
Gillett	Keyes	Sackett	

Mr. FESS. My colleague [Mr. BURTON] is detained from the Chamber on account of illness. I will let this announcement stand for the day.

Mr. DENEEN. My colleague [Mr. GLENN] is necessarily absent from the city. This announcement may stand for the day.

Mr. LA FOLLETTE. I desire to announce that my colleague [Mr. BLAINE] is absent with the official committee attending the funeral of the late Congressman Kvale. I ask that this announcement may stand for the day.

Mr. McMASTER. I desire to announce that my colleague the senior Senator from South Dakota [Mr. NORBECK] is unavoidably absent. I ask that this announcement may stand for the day.

Mr. GILLETT. I desire to announce that the junior Senator from Minnesota [Mr. SCHALL] is absent in attendance upon the funeral of the late Representative Kvale.

Mr. SHEPPARD. I desire to announce that the Senator from South Carolina [Mr. SMITH] and the Senator from Mississippi [Mr. STEPHENS] are absent on account of illness in their families.

The VICE PRESIDENT. Sixty-six Senators have answered to their names. A quorum is present.

Mr. KING. Mr. President, among the independent publications of the United States is the New Republic. It often contains articles dealing with economic and political questions written by persons of ability and character. In the August 28 number of the New Republic appears a carefully prepared article which deals in a rather comprehensive way with the tariff question. The Senate is now considering a tariff bill, and proponents of the ill-conceived measure attempt to justify its provisions increasing tariff duties upon manufactured commodities and insist that higher rates are needed to keep alive many manufacturing industries.

Mr. President, I ask that this illuminating article be read for the benefit of the Senate.

The PRESIDING OFFICER (Mr. VANDENBERG in the chair). Without objection, the article will be read.

The Chief Clerk read as follows:

[From the New Republic of August 28, 1929]

DO MANUFACTURERS NEED "RELIEF"?

When the House of Representatives passes a tariff bill that would raise hundreds of duties and would place the tariff at the highest point in our 140 years of national existence, it is reasonable to suppose that



the supporters of the bill believe that the business of the country, especially the manufacturing part of it, is threatened with a grave crisis which demands vigorous action by the Government. And yet in the same month that the bill was passed by the House, industrial production was higher than ever before in the country's history; shipments of iron ore were larger than in any recent May; the production of pig iron attained a new record, exceeding for the first time the output of May and June, 1923; and the production of steel ingots and coke also made new records. So little did investors lack confidence in the future of business that the average price of 338 industrial stocks was 95 per cent above the average of 1926. This level was maintained despite the fact that the offerings of new corporate securities—exclusive of refunding issues—totaled nearly a billion dollars, the largest ever recorded for one month. In view of these facts, it is worth asking what evidence there is that business needs a general increase in duties, particularly in duties on manufactured goods.

American manufacturers have always based their demand for protection upon the fact that they must pay wages far above the European levels. In view of this it is extraordinary that the demand for a still higher tariff should come at the close of a period which the committee on recent economic changes believes has shown an unprecedented increase in productivity per man-hour. As a result of labor's growing productivity, American manufacturers were able to get along with over 400,000 fewer men in 1927 than in 1923 and to reduce their wage bill by nearly \$160,000,000. In the meantime the value of factory output increased by over two billions. The consequence was that the wage bill dropped from 18.2 per cent to 17.3 per cent of the gross value of factory product.

It may be replied, however, that lower labor costs have been achieved partly by use of more machines and power, because between 1923 and 1927 the installed primary horsepower per factory worker increased from 3.8 to 4.7. Machines and power, of course, involve extra costs, both overhead and direct. Possibly, therefore, the manufacturer is really little better off; perhaps he has simply exchanged labor costs for machine and power costs.

Unfortunately it is not possible to trace the trend of machine and power costs. But there is evidence that industry has made substantial savings by using less labor and more machines and power. One important piece of evidence is its ability to attract capital. In 1928 the new security issues—exclusive of refunding issues—of American manufacturing and mining corporations reached a new record, \$1,453,200,000, or 16 per cent above 1923. Especially significant is the fact that, whereas in 1923 manufacturing and mining enterprises raised only 34 per cent of their new capital by common stock, in 1928 they were able to obtain over two-thirds of it by common-stock issues.

Still more important is the record of profits. Between 1923 and 1925 the profits of a group of 403 manufacturing and mining corporations increased 29 per cent. Between 1925 and 1928 the profits of a larger group—574 in all—increased 27 per cent to a new high record. This makes a gain of nearly 64 per cent between 1923 and 1928. The National City Bank reports that the earnings of 375 industrial corporations during the first quarter of 1929 were 37 per cent above the corresponding period in 1928. "Many concerns," says the bank in its July review of business, "have in six months made more profits than in the year 1928." Surely here is no evidence that manufacturers need "relief."

## II

But is American business holding its own in competition with other countries? Is our own market being dangerously invaded? What has been happening to our exports? Are we losing or gaining in the battle for the world's trade? Possibly here we shall discover evidence that American business needs more protection.

Let us consider first the totals of our foreign trade. In 1928 the value of our imports was less than in any year since 1924. In 1926 it was \$4,431,000,000; in 1927, \$4,185,000,000; and in 1928, \$4,091,000,000—a drop of 9 per cent in two years. No indication of a foreign threat here. Our exports, on the other hand, were greater than in any year since 1920. They were more than one-third above 1922, and nearly 7 per cent above 1926. Nor has this substantial growth been merely a matter of larger automobile sales, as some people erroneously think. As a matter of fact, automobiles and accessories were only 8.2 per cent of our total exports in 1927. We export substantially more machinery than automobiles.

But let us analyze our exports and imports of manufactured goods. The United States is now predominantly a manufacturing nation because, some time between 1910 and 1920 the number of factory workers passed the number of farmers and farm workers. Now 2,000,000 more people here make a living by manufacturing than by farming. Furthermore, it is the manufacturers for whom the House bill was primarily drafted. Perhaps American manufacturers are being sorely pressed by foreign competition.

Our imports of manufactured goods (including semimanufactured goods) are remaining substantially stationary in value. In 1923 they were \$2,022,000,000; in 1928, \$2,079,000,000, a growth of less than 3 per cent. The sales of General Motors Corporation alone during 1928 were three-quarters as large as the total imports of manufactured goods

by the whole United States during that year. That is how seriously foreign manufacturers menace our markets. The total value of manufactures imported by the United States is less than 3.4 per cent of our total domestic consumption of manufactured goods. In other words, the United States market is 96.6 per cent supplied by domestic manufacturers. Back in 1914 it was 95.8 per cent so supplied. That is how much progress the foreign manufacturer is making in our home market!

Our exports of manufactured goods, on the other hand, have been growing rapidly. In 1923 they were \$2,625,000,000; in 1928, \$3,687,000,000, a gain of 39 per cent. Particularly significant are the changes in our imports and exports of finished manufactures other than foodstuffs, because these, more than figures on semimanufactured goods or manufactures of foodstuffs, indicate the competitive strength of American factories. During the last several years our imports of finished manufactures have been diminishing and our exports increasing. Between 1926 and 1928 the decrease in the imports was nearly 9 per cent and the increase in the exports nearly 16 per cent. In 1923 our exports of finished manufactures were nearly twice our imports; in 1928 the ratio was nearly \$3 of exports to \$1 of imports.

## III

But is America holding its own in comparison with other countries? Our principal rivals in international trade are the United Kingdom and Germany. Let us compare the growth of our exports with the growth of theirs:

Domestic exports in millions of dollars

Year	United States	United Kingdom	Germany
1913.....	\$2,448	\$2,556	\$2,405
1927.....	4,759	3,447	2,428

Mr. KING. I would like to interpolate at this juncture that our exports for 1928 were \$5,129,000,000, showing a progressive increase.

The PRESIDING OFFICER. The clerk will continue the reading.

The Chief Clerk continued the reading, as follows:

Back before the war, it will be observed, the three countries stood about at a parity. Now the United States towers far above the other two with an export trade nearly twice that of Germany and more than one-third above that of the United Kingdom. When account is taken of the change in the price level between 1913 and 1927, it is evident that Germany's exports have diminished in physical volume and that those of the United Kingdom have increased very little. Only the United States has made a substantial gain in both the value and the physical volume of its exports.

But possibly the competing power of America is shown most clearly by our ability to hold our own with Europe in the markets of Australia, Asia, and Latin America. The percentage of imports purchased from the United States has increased as follows:

	1913	1926
Australia.....	14.0	24.6
Asia:		
China.....	6.0	16.4
India.....	2.5	7.4
Japan.....	10.8	28.6
Latin America:		
Argentina.....	14.7	25.5
Brazil.....	15.7	29.3
Chile.....	16.7	32.7
Cuba.....	53.7	62.3
Mexico.....	50.6	70.5

In every instance, our share of the trade has substantially grown; in two cases it has more than doubled, and in several more it has almost doubled. Even in the very strongholds of our competitors, in Great Britain, Germany, France, and Italy themselves, we have increased our share of the import trade. In Great Britain, our share of imports grew from 18.4 per cent in 1913 to 18.5 in 1926; in Germany, from 15.9 to 16.1; in France, from 10.6 to 13.3; and in Italy, from 14.4 to 21.7.

## IV

Here then in brief is the situation of American manufacturing: Labor costs shrinking, physical output greater than ever, profits higher than ever, the home market already nearly 97 per cent in the hands of domestic manufacturers, exports increasing rapidly, especially the exports of finished manufactures, imports (especially imports of finished manufactures) decreasing in value during the last several years, our share in the export trade of the world greater than ever. Surely this situation justifies no general upward revision of the tariff.

Undoubtedly the consumer's interest in what happens to the duties on manufactured goods is much less than is usually assumed, for he has already been pretty completely deprived of the opportunity to buy



foreign manufactures. The greatest sufferers from a higher tariff on manufactured goods are likely to be the manufacturers themselves and their employees. If American business men were less provincially minded, if they were in the habit of paying more attention to exports and less to imports, this would be apparent to them. Our exports of manufactured goods are 68 per cent more than our imports and they are growing rapidly, whereas our imports are remaining practically stationary. As far as manufactured goods are concerned, our markets at the present time are already practically closed to the rest of the world. American manufacturers, in consequence, have a far greater interest in keeping foreign markets open to their products than in still further closing a market which is already 97 per cent closed. In order to shut off an insignificant trickle of foreign manufactures, is it good business for American manufacturers to jeopardize their rapidly growing export trade? Before the present tariff bill was introduced, the prospect for a continued increase in our exports was probably as favorable as at any time in the country's history. The House bill, however, has radically changed the situation. It has aroused as widespread and as determined an opposition to our trade as any nation has had to face. Most certainly a general upward tariff revision would substantially handicap every American manufacturer in pushing his sales abroad. A Presidential veto would be merely a kindness to business.

SUMNER H. SLICHTER.

Mr. KING. Mr. President, corroboration of some of the statements in the article just read—

Mr. FESS. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. FESS. I wanted to ask who wrote the article, and in what publication it appears.

Mr. KING. It was written by Mr. Sumner H. Slichter. Perhaps the Senator did not hear me state that it appears in the New Republic.

Mr. FESS. That is quite high authority for statements of that sort, and I think the Senate is under an obligation to the Senator for having the article read.

Mr. KING. Knowing something of the Senator's devotion to "protectionism" I hope he is not speaking ironically.

Mr. FESS. No; I am not.

Mr. KING. I am glad the Senator joins with me in paying tribute to the independence of the New Republic at a time when so many newspapers are not independent but represent special or personal interests.

I am glad to know that the views stated are gratifying to the Senator; they certainly are to me. I am always glad to learn of the industrial and economic development of my country. My regret is that our economic progress has not been greater in view of the vast resources possessed by the United States. Large as our exports are they should be much greater. With hundreds of millions of people throughout the world needing our products and anxious to trade with us, it is unfortunate that there have been erected barriers which have prevented a greater expansion of our international trade than that which has been attained. With wise tariff laws and sound economic policies our exports for the year 1928 should have been in value several billion dollars in excess of the figures indicating our exports for 1928. As I have stated, with our unparalleled reservoirs of raw materials, our agricultural resources, our mechanical development, coupled with the genius and energy of the American people, our foreign trade should be much greater than it has been at any period in the past. May I suggest that the able Senator from Ohio must draw the deduction from the article that it is unwise and indefensible to now demand higher rates of duty upon manufactured products so as to further materially interfere with our foreign trade.

Mr. ROBINSON of Arkansas. No other deduction seems possible. I hope the Senator from Utah does not resent that kindly act on the part of the Senator from Ohio.

Mr. KING. No, indeed. However, knowing the conservatism of my friend and his interest in a protective tariff which many protectionists seem to think is designed to prevent exports and international trade, he might not approve of the article just read and the statements therein contained which conclusively prove that higher duties are not needed by the great manufacturing industries of the East, many of which are controlled by monopolistic organizations.

Mr. FESS. Mr. President, if the Senator will yield—

Mr. KING. I yield to the Senator.

Mr. FESS. I would approve statements of fact from whatever source, it does not matter what the source is. I only rose to say that I have not heard a statement which ought to please the people who are responsible for the administration of the Government more than this statement from the New Republic, and while that does not mean that there is no industry among all the industries, including agriculture, which does not need some additional protection, it is a fine statement of the general situation of the Government's affairs.

Mr. KING. Mr. President, remembering as I do the able keynote speech delivered by the Senator from Ohio at the Republican convention which nominated Mr. Hoover, I fear that he is not in entire accord with the spirit of the article and with some of the facts therein stated. The statement is made that our manufacturers have not entirely closed the door to imports, but permit about 3 per cent of our total consumption of manufactured commodities to enter the United States. I am inclined to think that the Senator would be glad to see tariff duties so high as to prevent any imports.

Mr. FESS. No, Mr. President; if the Senator will further yield. Anything we can produce I would be in favor of having us produce; but there are many things that we can not produce. So far as our ability to produce is concerned, I would be willing to be totally independent, if we could be; but we can not be that. Therefore, if the small amount of imports is due to our great productive ability it is a source of gratification.

Mr. KING. Obviously the Senator takes the position which I assumed he maintained, namely, that international trade and commerce is not to be desired, but only tolerated. It is not to be encouraged, but discouraged. We are to export our surplus products only because there are some things we can not produce and must therefore import. However, if we could produce everything which we consume—no matter the expense or difficulty—then there should be no imports and, of course, with no imports, exports would diminish and finally cease. The Senator's view is entertained by many protectionists. They would prefer to have no intercourse with the world. They would resort to every possible plan, sound or unsound, economic or uneconomic, to compel domestic production of everything that possibly could enter into the lives of the people. This view postulates isolation and is based upon the theory that for each nation to live in a water-tight compartment will be attended by the greatest degree of prosperity and the highest degree of felicity. The Senator states that it is a source of gratification that our imports are so small. Of course, his gratification would be greater if the imports were still smaller and, to be logical, his gratification would reach the greatest heights if there were no imports.

Mr. President, that view, however, is not, in my opinion, consistent with the broad, liberal, and progressive spirit which should animate a people and guide a nation such as this. We are appropriating hundreds of millions of dollars to build ships to carry the products of our fields and farms and factories to other lands. As our exports increase our domestic production will likewise increase. This means the consumption of more raw materials, the building of more factories, the employment of more men; the larger our exports the greater our domestic production. But trade is not one-sided. It possesses elements of reciprocity. As we import we export. Aside from the material benefits from trade and commerce, there are cultural and intellectual and moral and spiritual values which many believe outweigh material things.

I hope the Senator does not go to the extreme of contending that he would prohibit bananas from entering the United States. The contention was made before the Finance Committee by distinguished Republicans that bananas should not be imported in order to force the American people to eat more apples.

Mr. FESS. The Senator is correct. If we could produce all that we needed, I would be in favor of doing so. I feel that that is the independent position of the United States. I do not mean that we ought to attempt to produce what we can not produce, as I think some people undertake to do, but what we can produce by American labor and by American investment of capital I think it is sound policy to produce.

Mr. KING. I think I correctly interpret the Senator's position; it is that if by high tariffs we can absolutely exclude the importation into the United States of all commodities and force, by hothouse methods, the production of everything needed or used by the people, that course should be pursued, and that it would be a wise national economic policy.

Mr. FESS. No; I would not advocate hothouse methods, but I would say that if there is any article we can produce to the proportions of our demand by encouraging its production through protection, it is wise policy for us to do that.

Mr. KING. Let me inquire of the Senator: Does he believe that if we can produce commodities cheaper than other nations, and thus successfully compete with them, would he approve of a policy that would prohibit importation into the United States of all commodities which they might produce? May I say to the Senator that our manufacturers are producing many articles at a lower cost price than similar articles are produced abroad, and it is a fact that American manufacturers have sold domestically produced commodities in foreign markets at a lower price than they were sold in the United States and at levels lower than those prevailing in foreign countries.



Mr. FESS. We would not need any policy to interdict it, because the laws of economy would interdict it.

Mr. KING. Perhaps that is true, but there are exceptions to any general rule. There are undoubtedly some commodities being imported into the United States from countries to which we are exporting similar products. We have exported some agricultural commodities and have imported small quantities of the same kind of commodities. We have at times shipped butter to Denmark, and that country has exported butter to the United States.

Mr. President, most of the arguments of extreme protectionists lead, ultimately, to the closed door, to the embargo, and to the Chinese wall and the doctrine of nonintercourse with other countries. The Senator's view, as I understand it, is that he would erect a Chinese wall in the United States so as to keep out anything that can possibly be produced in the United States even though in so doing we might have prevented exports aggregating millions and millions of dollars, the production of which would furnish additional employment to American working men, and demands for larger quantities of raw materials and semifinished products.

Mr. FESS. If the Senator will permit, it is the last statement he made that caused me to comment on this article, where he said even though it would prevent exports. It has been stated all along that the pending tariff legislation would reduce our exports. This article shows what the Senator well knows, that our exports have not only increased, but have reached their maximum dimensions now, under the present tariff law.

Mr. KING. I do not agree with the Senator that the exports of the United States have reached their limit. The vast resources of our country, its climatic advantages, its unlimited raw materials, its progressive and intelligent people—these and many other advantages will compel our country to lead the world materially and otherwise. Isolation and provincialism resulting from predetermined narrow policies would warrant unusual criticism. In 1920 our exports greatly exceeded those of 1928. With our capital and the advantageous position which the United States occupies physically and otherwise, our exports ought to be far greater than they are at the present time. I think that with a wise policy, a policy which I should be very glad to have my Republican friends adopt, our exports will materially increase as the years go by. As the European nations and those with whom we trade increase in prosperity and their wages are advanced and their production is multiplied, our export markets will expand. As other countries become more prosperous, their productivity will increase, and their wages will rise.

As wages increase the purchasing power of the people will increase; their wants will multiply—and as a result there will be a greater demand for the products of this and other countries.

Mr. WALSH of Montana rose.

Mr. FESS. I agree with the Senator that we have not reached the limit of our exports. I assume we will continue to increase our exports just as the purchasing power of Europe will enable her to buy. We will have it for sale if they can buy.

Mr. KING. And the Orient, too.

Mr. FESS. The Senator mentioned 1920. That was the maximum of all of our exports, of course.

Mr. KING. And imports.

Mr. FESS. We loaned to Europe the money with which to buy what was necessary to rehabilitate her after the war and that accounted for the tremendous exports of 1920.

I ask the Senator to permit me to state in just a sentence what is my theory of a protective tariff. I will use an illustration. If by a policy we should adequately protect the element of sugar, using that as an example, so we could increase our production to the point where we could satisfy our needs, I would not hesitate in approving any reasonable rate. If, on the other hand, by adequate protection we are not to increase our production, it raises a question immediately as to the soundness of the policy.

I do not mean to say that the suggestion is not wise, because I understand we have the natural resources in the way of acreage to produce a good portion of the sugar that we consume. If by a policy we can induce that production, then through home competition we will ultimately reduce the price somewhat to the consumer below probably what he would pay if we were importing.

That is my theory exactly. If, on the other, there is no possibility of increasing production, then I raise the question of the wisdom of putting on a tariff. I think the Senator will agree that that is a fair proposition. In other words, Garfield once said, "I am in favor of that system of protection which will ultimately lead to free trade," and I think that is a sound policy.

Mr. KING. The Senator is referring now to a wise statement, at least thought so by some, made by President Garfield

when he was discussing a tariff bill in the House; and, of course, the Senator has in mind the statement made by President McKinley in the last address which he delivered at Buffalo. He declared that we must extend our foreign trade and that in order to sell, we must buy. His great address was a plea for world fellowship, for international commerce. He perceived that our exports must increase if the United States was to maintain a proper place among the great and progressive nations of the earth.

Mr. FESS. Does not the Senator agree with me that whatever we have that the world needs will be purchased by the world if they have the money with which to buy it?

Mr. KING. As a broad generalization that is correct. It is said that trade follows the flag. As a matter of fact trade does not always follow the flag. We have no treaty or treaty relations to-day with Russia and yet we are doing more business with Russia to-day than we did when we had diplomatic representatives in Russia prior to the Great War. We are having more trade with Russia than any country in Europe except one, not because Russia particularly desires to trade with us but because she can buy from us the commodities she desires and is able to make satisfactory arrangements with some American producers and manufacturers.

Mr. FESS. I rose to interrupt the Senator merely to express my satisfaction that he requested the article to be read.

Mr. SIMMONS. Mr. President, will the Senator yield to me?

Mr. KING. It was my desire to yield to the Senator from Montana [Mr. WALSH], who has been patiently waiting for several moments. Will the Senator from Montana indulge me while I yield to the Senator from North Carolina?

Mr. WALSH of Montana. Certainly.

Mr. SIMMONS. I do not suppose the Senator from Ohio would like to be understood as saying that when a tariff duty is so high as to be prohibitive and an industry in this country enjoying that degree of protection has by combination of secret agreements fixed prices and is charging the American people excessive prices, making profits ranging from 25 to 50 per cent, that those duties ought not to be reduced.

Mr. FESS. No; I would not hold that they ought not to be reduced if that situation obtains.

Mr. SIMMONS. Does not the Senator think that where that situation does obtain there ought to be a rather drastic reduction so as to break up the domestic monopoly which resulted in increasing prices to the people and enormously and out of reason enhancing profits to the producer?

Mr. FESS. If the situation which the Senator mentions comes from greed, I should think the proper procedure would be a prosecution under the antitrust law.

Mr. SIMMONS. The Senator knows that such prosecutions have resulted in very little good. They have dissolved the old trust and the integral parts of the trust have organized and then by some sort of understanding they are charging practically the same prices and making practically the same profits. We must legislate here to meet a situation which has grown up under our laws, sometimes the result of an improper or inadequate enforcement of such laws, sometimes because of decisions of the Supreme Court with regard to those laws. But where the condition does actually exist of an absolute character such as I have described, protecting an industry from foreign competition, and that industry, taking advantage of the situation, has by monopoly arrangements and secret agreements practically suppressed domestic competition, has practically fixed domestic prices, and is making an enormous, an unconscionable profit out of the people of the country, then that is a situation which calls for a drastic reduction of that wall of protection.

Mr. FESS. I will say to the Senator that those facts are not disputed—that is, not successfully contradicted. In other words, my idea is that protection would give the opportunity to build up industry and then through home competition the prices will be reduced to the consumer. If there is any agreement by producers to defeat competition, that, of course, destroys the principle of protection.

Mr. SIMMONS. Does not the Senator think that what I have stated has resulted in some instances?

Mr. FESS. I have no knowledge of it.

Mr. SIMMONS. I hope the returns which we are about to ask from the Secretary of the Treasury may enlighten the Senator upon that subject.

Mr. FESS. I am interested to know whether the Senator from North Carolina has knowledge of any industry that is doing that thing now?

Mr. SIMMONS. I think I could name quite a number. I shall be glad at a little later time to give the Senator from Ohio some information upon that subject.

Mr. KING. I am glad now to yield to the Senator from Montana.



Mr. WALSH of Montana. Mr. President, I rose to remark that the initial question and observations of the Senator from Ohio in relation to the article put in the *Record* by the Senator from Utah carried an obvious suggestion of the unreliability of the figures found in the article, considering that the article appeared in the *New Republic*.

Mr. FESS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Ohio?

Mr. KING. I yield.

Mr. FESS. Does the Senator say that that is his inference of what I had in mind when I asked the question?

Mr. WALSH of Montana. I thought so.

Mr. FESS. I had no such thought in mind. What I wanted to know was whether the Senator from Utah indorsed the statement that was made by a paper which is evidently unfriendly to protection. The figures given I do not question at all, and I wondered whether the Senator from Utah was indorsing them.

Mr. WALSH of Montana. I desire to remark that the argument of the article, although it is to my mind entirely irrefutable, is a matter of very little consequence. The important thing is the statistics furnished by the article.

Mr. FESS. I agree.

Mr. WALSH of Montana. And I say that the question addressed to the Senator from Utah by the Senator from Ohio was obviously calculated, if that was not the express intent, to throw suspicion upon the accuracy and reliability of those figures. I ask accordingly the Senator from Utah what information he can give us concerning the authenticity of the figures and of the sources from which they come?

Mr. KING. Mr. President, may I say to the Senator from Montana that I have not checked all the figures, but the researches made by me during the past few weeks in the *Statistical Abstract*, the *Tariff Commission's* reports, and in hundreds of reports, including those of the Department of Commerce and the economic organization created by President Hoover, and of which he was the chairman, led me to accept as substantially correct the figures dealing with imports and exports, with respect to the productivity of the United States, and those showing that we are able to compete with foreign countries. The tables presented in the article just read, I think, are substantially correct.

Mr. WALSH of Montana. The information is such as is periodically given out by the Department of Commerce and can be verified or ratified easily enough by a reference to the census returns and the reports of the Secretary of Commerce.

Mr. KING. Absolutely.

Mr. FESS. Mr. President, I wish to correct the impression which my question apparently made upon the Senator from Montana. If it makes the same impression upon other Senators that it did on the Senator from Utah, I am satisfied. I meant to intimate no feeling of suspicion as to the figures. On the other hand, I thought the figures were only those which had been given out heretofore and printed in a publication that is unfriendly to the protective tariff and to our claim that the country is fairly prosperous. I did not mean to throw any suspicion upon the authenticity of the figures at all.

Mr. KING. Mr. President, when the Senator first spoke I confess that I supposed he was speaking ironically in paying a meed of praise to an independent journal like the *New Republic*, and I felt fortified in the position which I took, but evidently I did the Senator an injustice, because I had heard many of his speeches, and I knew of his lifelong devotion to the cause of protection and protectionism carried to the nth degree; I remember listening to the address delivered by the Senator when he presided over the Republican National Convention, and I remember the impression which I gained then, merely confirmatory of the opinion which I entertained theretofore regarding his attitude toward protection; that he was, like Ephraim, still wedded to his idols; that he still believed in extreme protection; that he would rejoice to see all imports from abroad into the United States interdicted; and he expected that we could send our exports abroad to all the nations of the world without receiving in exchange anything from other countries. However, I am glad to learn that the Senator does not occupy that position upon the peak of extreme protectionism which heretofore I have conceded to him.

Mr. FESS. Mr. President, I hope the Senator from Utah does not intimate by his statement that I would interdict imports of commodities such as coffee, tea, and other articles which we do not produce. If the Senator means to indicate that under my theory the United States should be permitted to produce everything that it is capable of producing, then he is stating my

position correctly, but I do not want to prevent the importation of anything that we have to import.

Mr. KING. We could produce coffee or tea, but it would be at great expense.

Mr. FESS. I would not be in favor of that.

Mr. KING. And substantially all other commodities, except some minerals which are not found in the United States; indeed, with the development of the synthetic process in organic chemistry, we might be able to produce many commodities which heretofore we have not produced and have not deemed it possible to produce. But I am glad that the Senator would not favor building a wall so high as to keep all imports out of this country.

Mr. President, before reading an excerpt from a statement by Doctor Klein, I want to make merely one observation in reply to my friend from Ohio. Evidently he believes that domestic competition which takes refuge behind tariff ramparts will be sufficient to correct all the evils incident to monopoly and to bring about fair prices for domestic products. I hope the Senator remembers the statement of President Taft when he was Chief Executive. I can not quote it literally, but the substance of it was that he had hoped that with the tariff rates which were sufficient to develop domestic industry there would be such competition as would result in reasonable prices. Unfortunately there was too much greed, and it resulted in the domestic manufacturers raising the prices to unreasonable, if not extortionate, limits.

The Senator from Ohio will recall when we were discussing the tariff bill in 1922, that able Republican, former Senator McCumber, of North Dakota, after the bill was passed, as I recall, or at least during its discussion, when attention was challenged to the enormous rates that were carried by the bill, confessed that those rates afforded opportunities for the domestic manufacturer to charge the American people prices which would be extortionate, and he said in substance, "I plead with the American manufacturers not to exercise the power which this bill will give them to raise the prices of domestic commodities to extortionate limits." Unfortunately, the prayers of the Senator have not been answered.

The Senator from Ohio has overlooked for the moment a condition with which I think millions of American people are familiar, namely, the tremendous growth of trusts and monopolies and price-fixing organizations in the United States, which are determined to maintain high prices, prices entirely too high, in order that they may reap illegitimate profits from the prostitution of the power of the Government in their behalf. The Senator is aware of what was said by the Senator from North Carolina [Mr. SIMMONS] as to the result of the suits which have been prosecuted for the purpose of dissolving trusts. Their constituent parts have been like snakes which have been divided. We read of the snake which, after being divided, continues as two or more living forms, and so some corporations which have been dissolved by antitrust proceedings have reincorporated or have continued in their constituent forms, and have become as powerful as they were before. The Standard Oil Co. is an illustration. Does anyone deny that the Standard Oil Co., with its integrated and cooperating units, is less powerful now than it was prior to the suit which was initiated by the Government? It is infinitely more powerful to-day in its ability to destroy competitors and raise prices than it ever was before.

Does the Senator believe that the Steel Trust, through the Steel Institute, of which it is a member and which it dominates, does not to-day fix prices or that it does not indicate the level which shall be set for pig iron or steel ingots or scores of finished and semifinished products? I think it is a fact that so-called independents take refuge under the powerful wings of the great Steel Trust and accept, as a rule, the rates it establishes. Professor Jenks, in a work published in the past few months, indicates that the growth of trusts and monopolies has been so great that it is obvious the Government can not control them and therefore must regulate them. Mr. Woll, secretary of the Federation of Labor—

Mr. FESS. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield further to the Senator from Ohio?

Mr. KING. I will yield in a moment. Mr. Woll, it appears, has become a convert to trusts and monopolies and is advocating the repeal of the Sherman antitrust law in order, obviously, to give the trusts and the monopolies which have grown up in the United States greater power than they possess at the present time.

I now yield to the Senator from Ohio.

Mr. FESS. Mr. President, I do not think that my views differ from those the Senator is now expressing, so far as the



ineffectiveness of the procedure of dissolving trusts is concerned; but what I had in mind was a question as to whether the trusts to which the Senator refers are the result of legislation such as we are now considering in the Senate. In other words, I have heard it stated that the protective tariff builds up trusts, but at the time that statement was made I noticed that nearly all of the trusts were engaged in the production of articles which are not on the protected list. I do not think the tariff has anything to do with the growth of trusts.

Mr. KING. There is a difference of opinion as to that. Some of the ablest economists and business men, and some of those who have been interested in the trusts and in their formation have admitted the effectiveness of tariff legislation to develop trusts and monopolies.

Mr. SIMMONS. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from North Carolina?

Mr. KING. If the Senator from Ohio wishes further to interrogate me, I will yield first to him.

Mr. FESS. The Senator has just quoted my personal friend, Dr. Jeremiah Jenks. He agrees with me that the solution of the problem is concentration under control.

Mr. KING. May I say to the Senator that when I was in Russia a few years ago leading representatives of the Bolshevik government stated to me that trusts were inevitable in capitalistic countries and they looked with satisfaction upon the growth of trusts in the United States. Their view was that within a few years the aggregations of capital in the United States would be so great and powerful that substantially all production in the United States would be in their hands, that the people rather than have trusts control them and the government, would take over the property of the trusts and establish a communistic state.

Mr. FESS. Mr. President, will the Senator yield further?

The VICE PRESIDENT. Does the Senator from Utah yield further to the Senator from Ohio?

Mr. KING. I wanted to yield to my friend from North Carolina, but if he will pardon me for just a moment, I will yield further to the Senator from Ohio.

Mr. FESS. I think the Senator will agree with me that combination of capital or concentration in industry is the trend of modern economics, and it is not likely to be changed. I think that such concentration is inevitable because of consequent efficiency and economy in management and production; but, while concentration is being permitted, it is quite apparent and obvious that we must retain adequate control. It seems to me that the solution of the problem is not to proscribe concentration, but to permit concentration under proper regulation.

Mr. KING. I should like to say to the Senator that, in my opinion, we are reaching the forks of the road. We will enforce the Sherman antitrust law and the Clayton Act, and supplement them by more drastic laws against combinations in restraint of trade, or we will enact a Federal statute—which I should regret to see enacted—which will place all interstate commerce under the control of the Federal Government. The Government under this plan will seek to require all corporations engaging in interstate commerce to obtain Federal charters and submit to Federal control and regulation.

The system of competition in this Republic, the competitive system in our industrial and economic life, must be preserved or powerful bureaucracy or paternalism will assume control over interstate commerce and regulate it. Mr. Roosevelt, when he organized the Progressive Party, indicated that the Federal Government would ultimately have to take over the control of corporations engaged in interstate commerce.

A statute providing for Federal control of corporations, for licensing them and granting charters to them, will call for further Federal authority—their regulation. And if the Government controls and regulates, it may regulate prices and conditions of labor and all activities of the corporations.

I think the wise course is for the competitive system in our economic and industrial life to be maintained. Trusts and monopolies may have some advantages, but their disadvantages, in my opinion, countervail all benefits which might be derived from them. We should enforce the Sherman law and the Clayton Act and prevent monopolies and trusts from controlling our economic and industrial life. The man of limited means, the energetic, active business man, should have full and free opportunity to establish business and to play a man's part in the material advancement of our country.

I now yield to the Senator from North Carolina.

Mr. SIMMONS. The Senator has passed the point about which I wanted to ask him; but I thought perhaps there was no finer illustration of the force of the argument he was making as to the effect of excessive tariff protection on prices and combina-

tions than the situation which now exists in the dye industry in this country.

Mr. KING. Yes; I think the Senator states the situation quite correctly. The Senator will recall that when the bill was under consideration in 1922, Mr. du Pont, a distinguished citizen of Delaware, came before the committee. The then Senator from Pennsylvania, Mr. Penrose, the chairman of the committee, said to him, "What do you want?" Mr. du Pont said, "We want an embargo; we want a tariff so high that nothing can leak in, and then we want the Sherman antitrust law repealed so that we can combine and not be prosecuted." I shall not, however, pursue that question further, because at a later time during the debate on the tariff bill I propose to discuss the question of trust and mergers. I want to supplement the statement contained in the article which was read, calling attention to a few paragraphs from this morning's Washington Herald.

Dr. Julius Klein, the able head of the Bureau of Foreign and Domestic Commerce, stated that in dollars the value of combined American exports and imports for 1929 will be ten billions. In the eight months ended August 31, the combined trade was \$539,000,000 greater than in the same period of 1928; and yet our Republican friends and Mr. Grundy and the Tariff League—that organization that hovers around the Capitol constantly to aid in securing high tariff rates—demand that there must be increased rates; and I saw in the morning paper that Mr. Grundy is dissatisfied with the Senate bill. He prefers the House bill; and even that does not afford adequate rates, according to his view. The same Tariff League, as I recall, wanted the American valuation.

Exports for these months were valued at \$3,407,875,000, a gain of \$271,896,000; and the imports were \$3,016,942,000. The balance of trade was \$390,933,000.

Doctor Klein says:

For the first six months of the year 67 per cent of our foreign shipments were wholly or partially manufactured goods.

Showing, Mr. President, may I interpolate, that we can compete in the markets of the world, as many of our manufacturers are now doing, not merely in one or two commodities but in a great number, as will be shown before the debate concludes upon the present tariff bill.

Proceeding, Doctor Klein says:

Since in the last half there are considerable shipments of cotton and agricultural products, for the entire year the percentage of manufactured goods will be about 60.

This steady increase in the percentage of fabricated goods indicates a healthy condition of foreign business.

Mr. President, I find in the same paper statements of dividends, increases in capital stock, watering of stock, and so forth. Take, for instance, the Commercial Solvents Corporation. I shall have something to say about that corporation—the Carbide Co. and the Du Pont Co.—before we get through with the debate.

The Commercial Solvents Corporation is one of the many beneficiaries of Schedule 1 and one of the great trusts in the United States.

NEW YORK, September 13.—Stockholders of the Commercial Solvents Corporation, at a special meeting to be held October 3, will vote on the directors' proposal to authorize an increase in the capital stock to 3,000,000 shares from 250,000 shares to provide for a split-up of the stock on the basis of 10 new shares for each present share.

An extra stock dividend of 2 shares of stock for each 100 shares held has just been declared, payable October 1 to stock of record September 23.

Directors have also authorized the acquisition, subject to stockholders' approval at the special meeting, of the Commercial Pigments Corporation, through an exchange of shares. Commercial Pigments is engaged in the manufacture of titanium oxide, a high-strength white pigment with a wide range of industrial uses.

While no official statement has been made, it is understood Commercial Solvents' policy of declaring stock dividends will be continued on the new stock.

Their earnings are so great that they declare stock dividends, and then stock dividends upon stock dividends; and that has been done, as will be shown before the debates are over, upon not one but many corporations in the United States which have been and are the beneficiaries of the extortionate tariff rates found in the Fordney-McCumber bill.

I shall not put into the Record statements which I have here of a large number of companies declaring greater dividends this year than ever before, showing larger earnings during the past six months than during the corresponding six months in the year 1928 or 1927; and yet, in the face of these indisputable



evidences of large earnings by the corporations in almost every branch of industry we have here the spectacle of demands being made for increased protection upon the products of scores and scores of manufacturing institutions and corporations.

Mr. President, I yield the floor.

The VICE PRESIDENT. The clerk will continue the reading of the bill.

The reading of the bill was resumed, beginning on page 337, "Title IV—Administrative provisions."

Mr. SMOOT. Mr. President, the first amendment to that title is on page 339. It is exactly the same amendment that was offered in Title I.

The next amendment of the Committee on Finance was, on page 339, line 5, after the name "Virgin Islands," to strike out "and the islands of Guam and Tutuila" and insert "American Samoa, and the island of Guam," so as to read:

(k) United States: The term "United States" includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

The amendment was agreed to.

The next amendment was, at the top of page 340, to strike out:

(b) Finality of appraiser's decision: Any decision of the appraiser that the foreign value or the export value, or both, can not be satisfactorily ascertained shall be final and conclusive upon all parties in any administrative or judicial proceedings, and the value of the merchandise shall be determined in accordance therewith, unless within 10 days after notice of the appraisement is given under section 501, the consignee, or his agent, files with or mails to the Secretary of the Treasury a request for a review of such decision. Upon any such request the Secretary of the Treasury shall, after reasonable notice and opportunity to be heard has been afforded the consignee or his agent, affirm, modify, or reverse the decision of the appraiser, and the decision of the Secretary of the Treasury shall be final and conclusive upon all parties in any administrative or judicial proceedings, and the value of the merchandise shall be determined in accordance therewith. The Secretary of the Treasury shall upon reaching a decision immediately notify the consignee, or his agent, the collector, and the appraiser, thereof. In any such case, the period within which the consignee, or his agent, or the collector may make an appeal for reappraisal under the provisions of section 501 of this act shall, in lieu of the period prescribed, be 15 days from the date of the decision of the Secretary of the Treasury, if the decision of the appraiser is affirmed, or if the decision of the appraiser is reversed, from the date of personal delivery, or if mailed, the date of mailing of written notice of appraisement following such reversal; but in no case shall such period be less than the period prescribed in section 501 of this act. The consignee, or his agent, shall be deemed to have finally waived any right to a review by the Secretary of the Treasury under this subdivision if he takes an appeal for reappraisal under the provisions of section 501. Proceedings under this subdivision shall be in accordance with such regulations as the Secretary of the Treasury may prescribe.

Mr. SMOOT. Mr. President, that is the valuation section. On the request of several Senators I ask that that whole section go over.

The VICE PRESIDENT. The section will be passed over.

Mr. GEORGE. That is, all of section 402?

Mr. SMOOT. Yes. The next amendment is on page 367.

The next amendment was, on page 367, after line 10, to strike out:

(1) That such equipment or parts thereof or repair parts or materials were purchased, or that such expenses of repairs were incurred, in a foreign country, in order to maintain such vessel in a seaworthy condition, or to repair damages suffered or to replace equipment damaged or worn out during the voyage, or to maintain such vessel in a sanitary and proper condition for the carriage of cargo or passengers; or and insert:

(1) That such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety of the vessel to enable her to reach her port of destination; or

So as to read:

SEC. 3115. If the owner or master of such vessel furnishes good and sufficient evidence—

(1) That such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety of the vessel to enable her to reach her port of destination; or

(2) That such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the

labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel, then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this and the preceding sections, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

Mr. FLETCHER. Mr. President, I should like to have that go over. I do not quite like that amendment.

Mr. SMOOT. That is the amendment with regard to the repair of vessels in foreign ports.

Mr. FLETCHER. Yes.

Mr. SMOOT. I will ask, also, that that go over.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, on page 371, after line 17, to strike out:

(d) Exceptions by regulations: The Secretary of the Treasury may by regulations provide for such exceptions from or additions to the requirements of this section as he deems advisable.

Mr. SMOOT. Mr. President, the committee felt that that authority should not be given to the Secretary of the Treasury, and we struck it out. It is the existing law.

Mr. KING. Mr. President, I should like to inquire whether, under any of the previous laws, authority has been given to the Secretary to provide by regulation for any exceptions.

Mr. SMOOT. No, Mr. President; that is what I say.

Mr. KING. In former laws?

Mr. SMOOT. This was put in by the House, and we struck it out. We do not think the Secretary ought to be given that authority.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 374, line 1, after the words "from the," to strike out "Philippine Islands or any of its other possessions" and insert "Philippine Islands, the Virgin Islands, American Samoa, the island of Guam, or the Canal Zone," so as to read:

(f) Certification by others than American consul: When merchandise is to be shipped from a place so remote from an American consulate as to render impracticable certification of the invoice by an American consular officer, such invoice may be certified by a consular officer of a nation at the time in amity with the United States, or if there be no such consular officer available such invoice shall be executed before a notary public or other officer having authority to administer oaths and having an official seal: *Provided*, That invoices for merchandise shipped to the United States from the Philippine Islands, the Virgin Islands, American Samoa, the island of Guam, or the Canal Zone may be certified by the collector of customs or the person acting as such, or by his deputy.

Mr. KING. Mr. President, I think that amendment is a proper one.

Mr. SMOOT. It is.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 374, after line 18, to strike out:

(2) A person making entry of merchandise under the provisions of subdivision (h) of section 484 (relating to entry on a duplicate bill of lading) shall be deemed the sole consignee thereof.

And in lieu thereof to insert:

(2) A person making entry of merchandise under the provisions of subdivision (h) or (i) of section 484 (relating to entry on carrier's certificate and on duplicate bill of lading, respectively) shall be deemed the sole consignee thereof.

Mr. SMOOT. Mr. President, one of the Senators asked me to let that amendment go over. I therefore request that that be done.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment of the Committee on Finance was, on page 375, line 6, after the word "in," to strike out "subdivision (h)" and insert "subdivisions (h) and (i)," so as to read:



Sec. 484. Entry of merchandise: (a) Requirement and time: Except as provided in sections 490, 498, 552, and 553 and in subdivision (1) of section 336 of this act, and in subdivisions (b) and (1) of this section, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe. Such entry shall be made at the customhouse within 48 hours, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the collector authorizes in writing a longer time.

Mr. SMOOT. That goes with the other amendment, Mr. President. All of the amendments to that section should be passed over.

The VICE PRESIDENT. The section will be passed over.

Mr. SMOOT. I think the next amendment is on page 396.

The next amendment was, on page 396, line 18, after the word "value," to insert "or"; in line 20, after the word "of," to strike out "value, or (3) the appraisement is made on a basis of value different from the basis of value stated in the entry. Subject to the provisions of subdivision (b) of section 402 of this act (relating to review of the appraiser's decision by the Secretary of the Treasury), the" and insert the words "value. The"; and on page 397, line 25, after the word "consuls," to strike out "special" and insert "customs," so as to read:

Sec. 501. Notice of appraisement—Reappraisement: The collector shall give written notice of appraisement to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value. The decision of the appraiser shall be final and conclusive upon all parties unless a written appeal for a reappraisement is filed with or mailed to the United States Customs Court by the collector within 60 days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within 30 days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisement to the consignee, his agent, or his attorney. No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this act relating to the entry and appraisement of such merchandise. Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court and shall be assigned to one of the judges, who shall, after affording the parties an opportunity to be heard, determine the dutiable value of the merchandise. Reasonable notice shall be given to the importer and to the person designated to represent the Government in such proceedings of the time and place of the hearing, at which the parties and their attorneys shall have an opportunity to introduce evidence and to hear and cross-examine the witnesses of the other party and to inspect all samples and all papers admitted or offered as evidence. In finding such value affidavits and depositions of persons whose attendance can not reasonably be had, price lists and catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents. The value found by the appraiser shall be presumed to be the value of the merchandise and the burden shall rest upon the party who challenges its correctness to prove otherwise.

Mr. SMOOT. I think I ought to ask that this amendment go over, because it has reference to the valuation section.

Mr. KING. Yes.

Mr. SIMMONS. What is the number of it?

Mr. SMOOT. It is on page 396, section 501, "Notice of appraisement." If we agreed upon the valuation as we reported it, then I should ask to have this agreed to.

Mr. KING. Let it go over.

Mr. SMOOT. Yes; let it go over, Mr. President.

The VICE PRESIDENT. The amendment will be passed over.

Mr. SMOOT. The next amendment is, in section 501, on page 397, line 25, to strike out the word "special" and insert in lieu thereof the word "customs," because those referred to are customs agents, and we want them to remain as customs agents and not to be known as special agents, to be used, perhaps, in other lines of work.

Mr. KING. Other persons who are in the classified service are known as customs agents, are they not?

Mr. SMOOT. Yes. If we were going to speak of them we would call them customs agents and not special agents.

Mr. KING. There was no purpose to introduce into the service persons who were not now under the law qualified for that duty?

Mr. SMOOT. Not at all; and I wanted it to be so that these agents could not be used for anything other than customs service. Therefore the word "customs" ought to be used.

Mr. KING. May I say to the Senator with respect to the next amendment, on lines 10 to 17, that I have a number of amendments to that. If we are going to give the labor unions the opportunity to be litigants I want the consumers' unions and all the guilds and the Woman's Christian Temperance Union—

Mr. SMOOT. And prohibitionists.

Mr. KING. And prohibitionists and farmers, and everybody else, a chance to appear. If the Government is going to abdicate its authority to control its own litigation and collect its own taxes, I want everybody to have a chance to appear; so I have several amendments.

Mr. SMOOT. I am going to ask that that amendment go over.

The VICE PRESIDENT. The question is on agreeing to the amendment at the bottom of page 397, line 25, to strike out the word "special" and to insert in lieu thereof the word "customs."

The amendment was agreed to.

The next amendment was, in section 501, on page 398, after line 9, to insert:

In all proceedings instituted under this section an American manufacturer, producer, or wholesaler, or a representative of an American labor organization or labor association shall, with the permission of the court, granted in its discretion, have the right to appear, to offer evidence, to cross-examine witnesses and to be heard, as a party in interest, under such rules as the United States Customs Court may prescribe.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, in section 501, on page 399, line 3, after the word "to," to strike out "the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forthwith forwarded to the United States Customs Court," and insert "each of the parties in interest, or his agent or attorney, or filed by any party in interest, or his agent or attorney, with the collector, and a copy mailed to each of the other parties in interest, or his agent or attorney. Upon receipt of any such application the collector shall forthwith forward the same to the United States Customs Court."

Mr. GEORGE. Let that go over also. It is a part of the other amendment.

Mr. SMOOT. That will go over.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, in section 501, on page 399, line 25, to strike out "either" and insert "any."

Mr. SMOOT. Perhaps we had better let that go over, because it is in connection with the other subject.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, on page 401, after line 8, to strike out:

Sec. 503. Time for appraiser's return: The appraiser shall report the value of the merchandise to the collector within 120 days after the date of entry thereof; except that the Secretary of the Treasury may, upon application in any case, grant such extension of time as he may deem necessary.

Mr. KING. Mr. President—

Mr. SMOOT. I can make a statement as to this amendment unless the Senator wants to have it go over.

Mr. KING. I will be glad to hear the Senator's statement. The Senator will recall that there is a good deal of objection to that provision.

Mr. SMOOT. I will make a brief statement about it.

The bill as it passed the House contained a new provision requiring that the appraiser report the value of the merchandise within 120 days after entry, unless a longer time should be allowed by the Secretary of the Treasury in any particular case. The committee was advised that the cases in which a proper investigation and report of value can not be made within 120 days may be so numerous as to render the provision inadvisable. The amendment in lines 18 and 19 on page 401 are to conform to the above amendment as is the amendment on page 402, lines 12 to 20.

This would simply restore the existing law. There are cases where it would be absolutely impossible to handle the matters in 120 days. There has been no abuse, it has been reported to us, and I think both sides, the importer and the American manufacturer, thought that there was no necessity for it at all, and it would only create trouble if we agreed to the House provision.

Mr. KING. Mr. President, my recollection is that a number of witnesses before the Finance Committee made some complaint about the long time elapsing after the goods had been



landed before they could ascertain the duties which they were compelled to pay, and in the meantime, not knowing the duties which they would have to pay, they were unable to fix the prices for the articles which they had to sell. They said that if there was not some limitation upon the time within which the duties were to be fixed, it would be an obstacle to their disposition of the goods which they had brought into the United States, and possibly the opportunity to sell them would be gone, and it would be a very serious situation.

Mr. SMOOT. There was one witness who called attention to that, but the department said that in some cases it would be almost impossible to handle it within 120 days. There are not so many questions which arise which would require more than just an ordinary time, but when there is a question of classification, a question of valuation, a question of time, when there is a new class of goods being imported, one with which no one is acquainted, the department feels that a limitation within 120 days would work a hardship not only on the Government in some cases, perhaps, with an arbitrary ruling, but against the importer as well.

Mr. KING. I would like to ask the Senator if the department has considered the propriety of fixing any limitation of time within which they must establish the facts?

Mr. SMOOT. No; the department feels that the existing law, in which there is no limitation, has worked well indeed, and there are only a very few such cases. I know the Senator will remember that the representative of the Government, from the Department of Justice, I believe, called attention to one or two such cases.

Mr. KING. As far as I am concerned, I have no objection to the amendment being adopted now, with the understanding that if upon further information any Senator desires to reopen this section, that may be done.

Mr. SMOOT. That is the general understanding.

The PRESIDING OFFICER (Mr. Fess in the chair). The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 401, line 15, to strike out "504" and insert "503," and on line 15, in the subhead, to strike out "504" and insert "503," and in line 18, after the word "in," to strike out "subdivisions (b) and (c)" and insert "subdivision (b)," so as to read:

Sec. 503. Dutiable value: (a) General rule: Except as provided in section 562 of this act (relating to withdrawal from manipulating warehouses) and in subdivision (b) of this section, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty shall be the entered value or the final appraised value, whichever is higher.

The amendment was agreed to.

The next amendment was, on page 402, line 3, after the word "re-appraisalment," to strike out "or on request for review by the Secretary of the Treasury on basis of value"; in line 7, after the word "re-appraisalment," to strike out "or on such review by the Secretary of the Treasury"; and in line 9, after the word "faith," to strike out "after due diligence and inquiry on his part," so as to read:

(b) Entries pending reappraisalment: If the importer certifies at the time of entry that he has entered the merchandise at a value higher than the value as defined in this act because of advances by the appraiser in similar cases then pending on appeal for reappraisalment or re-appraisalment, and if the importer's contention in such pending cases shall subsequently be sustained, wholly or in part, by a final decision on reappraisalment or re-appraisalment, and if it shall appear that such action of the importer on entry was taken in good faith, the collector shall liquidate the entry in accordance with the final appraisalment.

Mr. SMOOT. Mr. President, this amendment depends upon the valuation section, and perhaps we had better let it go over.

The PRESIDING OFFICER. The amendment will go over.

The next amendment was, on page 402, after line 11, to strike out:

(c) Failure of appraiser to make return: If, in the case of merchandise for which entry is made after this act becomes effective, the appraiser fails to report the value to the collector within the period prescribed by law, the entered value shall be deemed the final appraised value; except that in the case of an entry under subdivision (b) of this section, the entered value less the amount added in the entry because of advances by the appraiser in similar cases, shall be deemed the final appraised value.

Mr. SMOOT. This simply conforms to section 503, and we will agree to this with the understanding, as the Senator has said, that if any Senator shall ask for a reconsideration, it may be granted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 402, line 21, to strike out "(d)" and insert "(c)."

The amendment was agreed to.

The next amendment was, in section 504, on page 403, line 1, to insert the subhead "Sec. 504. Coverings and containers," and at the beginning of line 2, to strike out "(c) Coverings and containers," so as to read:

SEC. 504. Coverings and containers: If there shall be used for covering or holding imported merchandise, whether dutiable or free of duty, any unusual material, article, or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duties shall be levied upon such material, article, or form at the rate or rates to which the same would be subjected if separately imported.

The amendment was agreed to.

The next amendment was, in section 506, on page 404, line 2, before the words "days," to strike out "10" and insert "30"; in line 5, before the word "days," to strike out "10" and insert "30"; and in line 12, before the word "period," to strike out "10-day" and insert "30-day," so as to read:

(1) Abandonment within 10 days: Where the importer abandons to the United States, within 30 days after entry in the case of merchandise not sent to the appraiser's stores for examination, or within 30 days after the release of the examination packages or quantities of merchandise in the case of merchandise sent to the appraiser's stores for examination, any imported merchandise representing 5 per cent or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the item appears, and delivers, within the applicable 30-day period, the portion so abandoned to such place as the collector directs unless the collector is satisfied that the merchandise is so far destroyed as to be nondeliverable.

Mr. SMOOT. That is the same amendment we agreed to—that is, 10 days was not long enough—and we gave 30 days in relation to another paragraph. This follows out the same idea.

The amendment was agreed to.

The next amendment was, in section 514, on page 410, line 25, after the word "law," to strike out "such determination" and insert "in all proceedings instituted under this section an American manufacturer, producer, or wholesaler, or a representative of an American labor organization or labor association shall, with the permission of the court, granted in its discretion, have the right to appear, to offer evidence, to cross-examine witnesses, and to be heard, as a party in interest, under such rules as the United States Customs Court may prescribe. The determination of the court"; and on page 411, line 12, after the word "be," to strike out "filed" and insert "filed, by any party in interest," so as to make the paragraph read:

Sec. 515. Same: Upon the filing of such protest the collector shall within 90 days thereafter review his decision, and may modify the same in whole or in part and thereafter remit or refund any duties, charge, or exaction found to have been assessed or collected in excess, or pay any drawback found due, of which notice shall be given as in the case of the original liquidation, and against which protest may be filed within the same time and in the same manner and under the same conditions as against the original liquidation or decision. If the collector shall, upon such review, affirm his original decision, or if a protest shall be filed against his modification of any decision, and, in the case of merchandise entered for consumption, if all duties and charges shall be paid, then the collector shall forthwith transmit the entry and the accompanying papers, and all the exhibits connected therewith, to the United States Customs Court for due assignment and determination, as provided by law. In all proceedings instituted under this section an American manufacturer, producer, or wholesaler, or a representative of an American labor organization or labor association shall, with the permission of the court, granted in its discretion, have the right to appear, to offer evidence, to cross-examine witnesses, and to be heard, as a party in interest, under such rules as the United States Customs Court may prescribe. The determination of the court shall be final and conclusive upon all persons, and the papers transmitted shall be returned, with the decision and judgment order thereon, to the collector, who shall take action accordingly, except in cases in which an appeal shall be filed, by any party in interest, in the United States Court of Customs and Patent Appeals within the time and in the manner provided by law.

Mr. SMOOT. My colleague will ask that the amendment go over, I think, from the statement he has just made with respect to the labor organizations.

Mr. KING. Yes; I ask that it may go over.

The PRESIDING OFFICER. The amendment will be passed over.



The next amendment was, in section 516, on page 416, after line 17, to insert:

(e) American labor: Any authorized representative of an American labor organization or labor association shall, in respect of merchandise in the manufacture or production of which members of such organization or association take part, have the same right to complain, appeal, or protest as is by this section accorded to an American manufacturer, producer, or wholesaler.

Mr. SMOOT. That is the same kind of amendment; it will go over.

Mr. KING. Yes.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, in section 518, on page 421, after line 11, to insert:

All functions of the Secretary of the Treasury with respect to the appointment and fixing of the compensation of the clerks and other employees of the United States Customs Court, and with respect to the official records, papers, office equipment, and other property of such court, are hereby transferred to the Attorney General. All unexpended amounts allotted from any appropriation for collecting the revenue from customs available for expenditure by the Secretary of the Treasury for the payment of the salaries of the judges of the United States Customs Court, including judges retired under the provisions of section 518 of the tariff act of 1922, and for the expenses of operation of the United States Customs Court, are hereby transferred to the Department of Justice, to be available for expenditure by the Department of Justice for the same purposes for which such allotments were made.

Mr. SMOOT. This is the transfer of the Customs Court, and I think it had better go over.

The PRESIDING OFFICER. The amendment will go over.

The next amendment was, in section 521, on page 423, line 22, after the word "years," to insert "(exclusive of the time during which a protest is pending)," so as to make the section read:

SEC. 521. Reliquidation on account of fraud: If the collector finds probable cause to believe there is fraud in the case, he may reliquidate an entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

Mr. KING. Mr. President, will not the Senator briefly explain this provision?

Mr. SMOOT. The House provision authorizes the collector to reliquidate within two years after the date of liquidation or last reliquidation if he finds probable cause to believe that there is fraud. The committee amendment, in lines 22 and 23, provides that the two years shall be exclusive of the time during which a protest is pending. Without this provision it would be possible, strictly speaking, for an importer to make a fraudulent entry, file a protest, and in some manner hold up the case for two years and thus thwart the collector and prevent him from reliquidating.

The amendment was agreed to.

The next amendment was, on page 427, line 16, before the word "persons," to strike out "8" and insert "10," so as to make the section read:

SEC. 525. Details to District of Columbia from field service: In connection with the enforcement of this act the Secretary of the Treasury is authorized to use in the District of Columbia not to exceed 10 persons detailed from the field force of the Customs Service and paid from the appropriation for the expense of collecting the revenue from customs.

Mr. SMOOT. This simply means that they can detail 10 persons instead of 8, and it is necessary. I suppose my colleague has already recognized that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 427, line 20, after "Sec. 526" in the subhead, to strike out "Merchandise bearing American trade-mark" and insert "Importation of merchandise bearing American trade-mark or patent notice prohibited."

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, on page 427, line 24, after the word "(a)," to strike out "Importation prohibited" and insert "Merchandise bearing trade-mark," and on page 428, line 14, after the word "act," to strike out the comma and "unless written consent of the owner of such trade-mark is produced at the time of making entry."

Mr. KING. Let that go over.

Mr. SMOOT. Yes.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, on page 428, after line 15, to insert:

(b) Merchandise bearing patent notice: It shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or any part thereof, or the package in which it is inclosed, is marked or labeled, in accordance with the provisions of section 4900 of the Revised Statutes (relating to notice of patent under the laws of the United States), or any act amendatory thereof, supplementary thereto, or in substitution therefor.

Mr. KING. Let that go over.

Mr. SMOOT. It may go over.

The PRESIDING OFFICER. It will go over.

The next amendment was, on page 429, line 3, to strike out "(c)" and insert "(d)," and on line 4, after the word "any," to strike out the word "such"; in line 4, after the word "merchandise," to insert "imported in violation of subdivision (a) of this section," so as to read:

(d) Injunction and damages: Any person dealing in any such merchandise imported in violation of subdivision (a) of this section may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trade-mark and shall be liable for the same damages and profits provided for wrongful use of a trade-mark, under the provisions of such act of February 20, 1905, as amended.

Mr. SMOOT. That may go over.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, on page 429, to strike out section 527 with the subhead "Importation of wild mammals and birds in violation of foreign law."

Mr. SMOOT. I can make a brief statement on this amendment.

The House bill contained a new provision prohibiting the importation of wild mammals or birds unless accompanied by the certification of an American consul that such articles have not been acquired or exported in violation of the laws of the country from which they come. The committee amendment, page 429, beginning with line 12, strikes out the entire section. The provision partakes of the nature of an attempt to enforce the laws of foreign countries in respect of matters of their internal policy. While it may not be proper to encourage violation of foreign laws, it would seem to be beyond the proper purpose of a tariff bill to adopt the amendment proposed by the House bill.

Mr. KING. It is a wise amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMOOT. Mr. President, the next provision is Part IV, "Transportation in bond and warehousing of merchandise," beginning with section 551. I promised one or two Senators that if we reached that to-day it might go over. There are amendments that they want to offer to that section.

The VICE PRESIDENT. It will go over. The next amendment of the committee will be stated.

The next amendment was, in section 557, on page 435, line 20, after the name "Virgin Islands," to strike out "the island of Guam, or the island of Tutuila," and insert "American Samoa, or the island of Guam," and on page 436, line 8, after the name "Virgin Islands," to strike out "the island of Guam, or the island of Tutuila," and insert "American Samoa, or the island of Guam," so as to make the first paragraph of the section read:

SEC. 557. Entry for warehouse—Warehouse period—Drawback: Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. Such merchandise may be withdrawn, at any time within three years from the date of importation, for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; or may be withdrawn for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, or the island of Guam, without the payment of duties thereon, or for transportation and rewarehousing at another port: *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed three years from the date of importation. Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, or the island of Guam, under such regulations



as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, 99 per cent of the duties thereon shall be refunded.

The amendment was agreed to.

The next amendment was, in section 562, on page 439, line 18, after the name "Virgin Islands," to strike out "the island of Guam, or the island of Tutuila," and insert "American Samoa, or the island of Guam," so as to make the section read:

Sec. 562. Manipulation in warehouse: Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than 1 ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: *Provided*, That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the entered value or the adjusted final appraised value, whichever is higher, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise such rate shall be based upon or regulated by such adjusted final appraised value; but for the purpose of the ascertainment and assessment of additional duties under section 489 of this act adjustments of the final appraised value shall be disregarded. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section.

Mr. KING. Mr. President, no testimony was given before the committee, so far as I can recall, with respect to warehouses and the manner in which they were to be used and the allowances by the Secretary. Do these provisions of the law work successfully now?

Mr. SMOOT. There is no objection to them whatever on the part of the department.

Mr. KING. They were recommended by the Treasury Department?

Mr. SMOOT. They were.

Mr. KING. And are entirely satisfactory to all parties?

Mr. SMOOT. Entirely so.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 584, on page 446, line 13, before the word "shall," to strike out "or the owner of such vessel or vehicle," and in line 20, after the word "charge," to strike out "or the owner of such vessel or vehicle," so as to make the first paragraph of the section read:

Sec. 584. Falsity or lack of manifest—Penalties: Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of \$500, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge shall be subject to a penalty of \$500: *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred.

Mr. SMOOT. The House made the owner of the vessel liable and the committee strikes that out so that it reads "The master of such vessel or the person in charge of such vehicle shall be liable," and so forth. I do not know why the House worded it that way. There was no testimony to show that it ought to be changed, but there was some testimony tending to show that it should not be changed, so the Finance Committee agreed to let existing law stand.

Mr. ROBINSON of Arkansas. The present law does not make the owner of the vehicle liable for the penalty?

Mr. SMOOT. It does not.

The amendment was agreed to.

The next amendment of the Committee on Finance was, on page 447, line 6, after the word "vehicle," to strike out "or the owner of such vessel or vehicle," and in line 9, after the word "shall," to strike out the comma and "notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers)," so as to make the second paragraph of section 584 read:

If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or the person in charge of such vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. Such penalty shall constitute a lien upon such vessel which may be enforced by a libel in rem. Clearance of any such vessel may be withheld until such penalty is paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law.

Mr. KING. Mr. President, some time ago I received a telegram from a Senator who is absent. I do not recall the exact wording of the telegram, but it was to the effect that he thought the provision penalizing the owners of vessels when they were entirely innocent, because some person had brought into the United States or carried on to the vessel—

Mr. SMOOT. If the Senator would prefer, I shall be glad—

Mr. KING. The Senator to whom I refer is absent from the United States, but will be back in a few days I am informed.

Mr. SMOOT. I think perhaps I was a little hasty. I think if the statement of my colleague had been concluded it would show entire agreement with the amendment we have made.

Mr. FLETCHER. That is my understanding of the Senator's position.

Mr. SMOOT. I was a little hasty in interrupting my colleague.

Mr. KING. It may be adopted and I will obtain the Senator's telegram and if the amendment is not in harmony with his suggestion then I will ask that it be reconsidered.

Mr. SMOOT. I think I know the Senator to whom my colleague refers and I am sure this is in accordance with his desires.

The committee amendment on page 447, lines 9 and 10, strikes out a further House amendment which would impose upon vessels or vehicles used as common carriers liens for penalties of \$25 an ounce for violations of the section relating to smoking opium. Under the proviso in section 594, page 455, such vessels or vehicles are not subject to seizure or forfeiture unless the owner or master of the vessel or the person in charge of the vehicle is a consenting party or privy to the illegal act. With perhaps rare exceptions, common carriers cooperate to the fullest extent with Government officials in the prevention of opium smuggling and, on their own part, have developed efficient and thorough inspection services. The Senate committee amendment restores the existing law.

Mr. KING. Mr. President, I am very much in sympathy with any law aimed at preventing narcotics or any commodity being brought into the United States in violation of law. However, it does seem to me to be rather a drastic provision if a person exerts his authority and uses every means possible to prevent a violation of law. If the master of a vessel, for instance, resorts to every device possible that any prudent man would resort to to prevent his vessel being a carrier of any narcotics, to libel the vessel, and hold him responsible when he has done everything within his power is rather a drastic provision.

Mr. SMOOT. It provides a penalty of \$25 an ounce. We thought it was best to leave out the clause in lines 6 and 7 as well as in lines 9, 10, and 11.

Mr. GEORGE. Mr. President, as I understand it, the effect of the committee amendment is to take out all of these provisions and there will be no liability of the vessel unless the owner was guilty or had guilty knowledge.

Mr. SMOOT. Yes; and it simply refers to existing law.

Mr. GEORGE. In other words, the innocent owner of the vessel who did not participate in or had no knowledge that opium was being transported would not be punishable.

Mr. SMOOT. That is the object.

Mr. BROUSSARD. Mr. President, may I ask the Senator from Utah a question?

The VICE PRESIDENT. Does the Senator from Utah yield?

Mr. SMOOT. Certainly.

Mr. BROUSSARD. Is there any provision in the bill with respect to automobiles that have been seized?

Mr. SMOOT. There is no change in the law.

Mr. BROUSSARD. There is no change?

Mr. SMOOT. None whatever.



Mr. BROUSSARD. That is the very thing about which I am complaining. I have a case in New Orleans where a security company made a loan. The man represented that he was borrowing the money to buy a truck to engage in the fish-delivery business. He was arrested for carrying liquor. The department ruled against the security company and practically destroyed any lien or privilege or recourse to be had against the truck for the unpaid balance of the loan. Is there any provision in the bill with reference to seizures of that kind?

Mr. SMOOT. There is no provision in the bill relating to that matter.

Mr. BROUSSARD. I thought it was very unjust to destroy the security upon which the loan had been made.

Mr. WALSH of Montana. Mr. President, the situation arising from this provision of the bill is not at all clear to me. Apparently the committee deemed it advisable to take out the language "or the owner of such vessel or vehicle," and likewise the provision "notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers)," so that the master of such vessel or person in charge of such vehicle becomes liable to the penalty of \$25 for each ounce thereof so found.

Mr. SMOOT. That is the existing law.

Mr. WALSH of Montana. Then it provides: "Such penalty shall constitute a lien upon such vessel which may be enforced by a libel in rem." The point I am making is that while the owner of the vessel is exempted from payment of the fine, still his vessel may be libeled and satisfaction of the fine procured out of his property. The only effect is that he does not become personally liable for the fine, but he really pays it, because his vessel is liable for it.

Mr. SMOOT. Let me read section 594 to the Senator under the heading "Libel of vessels and vehicles." It reads as follows:

Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same: *Provided*, That no vessel or vehicle used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws unless it shall appear that the owner or master of such vessel, or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto.

Mr. WALSH of Montana. That is all right, but there is another rule which obtains here. That is the general provision applicable to all cases of seizure for any reason whatever. This is a specific provision applicable to opium, and the specific provision will control over the general provision, so that while the owner of the vessel upon which is found the opium will not be personally responsible for the \$25 fine, yet his ship will be subject to be libeled for the amount notwithstanding the provisions on page 465.

Mr. SMOOT. The question came up before the committee. We had there a representative of the Attorney General and he stated to the committee that the Attorney General had already ruled that that would not be the case.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SMOOT. Certainly.

Mr. GEORGE. Though my recollection is not quite clear, I think the situation is that the penalty of \$25 may be assessed against the vessel if the vessel is not a common carrier, but if a common carrier, then the vessel is not subject to libel.

Mr. SMOOT. The Senator is right.

Mr. GEORGE. That is my recollection.

Mr. SMOOT. That is correct.

Mr. GEORGE. So if the master in charge of an unlicensed vessel or a vessel not licensed as a common carrier or a vessel not actually a common carrier under section 594 is found with opium, the vessel is libeled for the fine. That is my recollection.

Mr. SMOOT. The Senator is correct.

Mr. KING. Mr. President, I would like to ask the Senator from Georgia if that construction is correct in view of the language of section 584?

Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable—

And so forth.

The provision with respect to libeling the boat is in the same section. Does not this section contemplate that those who fall within it would be engaged in commerce, interstate or foreign? It seems to me that the provision for libeling the boat is not limited to those engaged in what might be called intrastate

commerce or a person who might be running his own boat for pleasure and not for commerce.

Mr. WALSH of Montana. The situation referred to by the Senator from Georgia is obviously covered by section 594, because it provides, in the first place, that a vessel or vehicle shall be libeled. However, from the general provision is excepted a vessel which is a common carrier, so that the Senator is quite right considering only section 594; that is to say, that any vessel carrying anything which is contraband will be subject to seizure, provided, however, that if that vessel is a common carrier it would not be liable unless the owners participated. That is all embraced in section 594; but now we go back to section 584, which deals specifically with opium. Vehicles and vessels are subject to forfeiture for transporting other articles besides opium and are subject to forfeiture for violation of many of the customs laws and regulations. Section 594 is general in its character; it deals with forfeitures generally, for whatever cause, for which vessels and vehicles may be libeled.

Mr. SMOOT. And that is the existing law, I will say to the Senator from Montana.

Mr. WALSH of Montana. Yes.

Mr. SMOOT. The Finance Committee in section 594 do not propose to change the existing law. They also retain the existing law in section 584. The amendment which the committee propose in section 584 is the existing law, and the whole of section 594 is also the existing law.

Mr. WALSH of Montana. I do not mean to be understood as offering the slightest objection either to the provision or the action of the committee. I merely called attention to what the language means. In my judgment it means that any kind of a vessel on which opium is found becomes liable to forfeiture.

Mr. GEORGE. The language may not be quite clear—

Mr. SACKETT and Mr. SMOOT addressed the Chair.

The VICE PRESIDENT. One at a time. The Senator from Georgia [Mr. GEORGE] has the floor.

Mr. GEORGE. The language may not be quite free from ambiguity, as pointed out, but my understanding is that the Senate Committee on Finance proposes to work the result that the owner of a vessel which is a common carrier shall not be liable for the \$25 penalty for each ounce of opium found on board; but where the vessel is not a common carrier and is privately owned and privately controlled, and where the owner has a right to say who shall go on board and who shall not go on board, who shall have charge and who shall not have charge on his vessel, in that case the vessel itself is made liable to the fine of \$25. I am not sure, however, that the section actually accomplishes that in the shape in which it is framed.

Mr. SMOOT. That is exactly what the Finance Committee decided it did accomplish, and that is exactly what the representatives of the Department of Justice said it would accomplish. Of course, the case of a private yacht, for instance, is different from that of a common carrier.

Mr. GEORGE. Yes; that is obvious. A private yacht is not a common carrier, and in that case the vessel itself ought to be liable.

Mr. SMOOT. That is existing law.

Mr. GEORGE. But where the vessel is a common carrier, and the owner is entirely innocent of knowledge of the presence of opium on the vessel, of course, the vessel ought not be penalized.

Mr. WALSH of Montana. That is quite obvious, because in the case of the common carrier the owner is obliged to take whatever cargo is offered.

Mr. GEORGE. Exactly.

Mr. WALSH of Montana. But in the case of an owner of a vessel which is not a common carrier the owner is not obliged to take whatever is offered.

Mr. GEORGE. That is quite true.

Mr. WALSH of Montana. So there ought to be the distinction which is provided for in section 594; but if I do not trespass, I call the attention of the Senator from Georgia to the fact that all of these considerations are embraced in section 594, which deals with libels and forfeitures generally. The first part of the section refers to the case of a privately owned vessel and not a common carrier; the last part refers to common carriers. All of those considerations are found in that section; but we come now not to a general provision in section 584, at page 447, but to a specific provision relating to opium.

Mr. GEORGE. Mr. President, it seems to me that the section is not quite clear, I will say to the Senator, yet I believe the effect of the amendment to be as stated, for this reason: Section 594 contains a general provision relating to common carriers. Section 584 imposes penalties in the case of opium being found on board a vessel, and it imposes a penalty of \$25 an ounce. In the first instance it imposes a penalty of \$500 cover-



ing certain conditions, and the House undertook to subject the owner of the vessel to the payment of a penalty of \$500 notwithstanding he had no knowledge of the presence of opium on the vessel, and notwithstanding the fact that its manifest did not disclose the presence of opium. The House also imposed a penalty of \$25 for each ounce of opium upon the vessel and undertook to make that applicable to common carriers. There is no intent to relieve vessels which are not common carriers from the penalty. The House undertook, by the language in which the amendment is framed, to make the penalty of \$25 for each ounce of opium found on a vessel a charge against the vessel as in the first instance, whether the owner of the vessel had any knowledge of it or not; but there is no purpose, so far as the Senate Finance Committee is concerned, of relieving the vessel of the \$25 for each ounce of opium if it is not a common carrier; that is, if it is a privately owned and privately controlled vessel. While it is an indirect way of stating it, it seems to me that is the effect of the amendment.

Mr. WALSH of Montana. I call the attention of the Senator to the fact that the provisions of section 584, as they are found at page 447, are applicable to any kind of a vessel, whether it is a common carrier or not, and it obviously was intended to relieve the innocent owner from any liability unless he participated in the matter. So it does, so far as his personal liability is concerned; but, having relieved him of any personal liability, then the bill continues that—

Such penalty shall constitute a lien upon such vessel, which may be enforced by a libel in rem.

That is, any vessel, whether it be a common carrier or whether it be not a common carrier. The point I am trying to make is, that although the owner may know nothing whatever about the matter, the penalty becomes a lien on his vessel.

Mr. SMOOT. I should like to state that the Attorney General has ruled that the proviso in section 594 referred to by the Senator governs section 584.

Mr. WALSH of Montana. I would say, then, that the Attorney General disregards a very fundamental principle of law in the construction of statutes.

Mr. SACKETT. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Kentucky?

Mr. SMOOT. I yield.

Mr. SACKETT. In regard to that, as a member of the Finance Committee I wish to say that in the first part of section 584 there are two other penalties, but those penalties are not attached by way of libel on the ship. However, on account of the enormity of the offense of bringing into this country opium, the members of the committee felt that the penalty should attach to the ship in that case, so as to provide a somewhat greater penalty in that case than in the other. That was the object we had in providing for a libel on the ship in the second paragraph of the section.

Mr. WALSH of Montana. The Senator realizes that apparently it was originally intended to relieve the innocent owner—

Mr. SACKETT. The innocent owner individually.

Mr. WALSH of Montana. From any liability in the matter.

Mr. SACKETT. That was the object.

Mr. WALSH of Montana. But where the innocent owner has been relieved of any liability, the ship has been made liable.

Mr. SACKETT. That was what the committee felt was the proper thing to do. They may have been mistaken, but that was their object.

Mr. CONNALLY. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Texas?

Mr. SMOOT. Yes.

Mr. CONNALLY. Let me call attention to the fact that it is proposed to strike out the words found in section 584 of the House bill, reading as follows:

notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers).

The Journal will show that fact and will be evidence that the Senate did not mean that section 584 was to contradict section 594.

Mr. SMOOT. The Senator is right, and as the Senate committee has reported the provision it is exactly the same as existing law.

Mr. GEORGE. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Georgia?

Mr. SMOOT. Yes.

Mr. GEORGE. Although we have spent considerable time on this question, let me say further that while I think this section would be subject to the construction that the vessel would not

be subject to libel if it were a common carrier, if the words "notwithstanding the proviso in section 594 of this act (relating to immunity of vessels used as common carriers)" had never been inserted in the act—I agree to that—at the same time I am quite conscious of the force of the suggestion made by the Senator from Montana that paragraph 594 is a general exception, and that this being a specific penalty against the importation of opium there might be some confusion under certain rules of construction. Yet it seems to me that the section as proposed to be amended by the Finance Committee of the Senate does have the effect of carrying the penalty against the vessel, if a common carrier, only in the event that the owner of the vessel had guilty knowledge of the transaction.

Mr. WALSH of Montana. Let me ask the Senator whether in order to accomplish that purpose it would not be necessary to have it read "such penalty shall, subject to the provisions of section 594, constitute a lien."

Mr. GEORGE. I think unquestionably that would make it clearer and more definite, but it would mean the same thing.

Mr. SMOOT. It would mean exactly the same thing.

The VICE PRESIDENT. Does the Senator from Montana suggest an amendment?

Mr. WALSH of Montana. No; I am merely calling the attention of the committee to what seems to me to be an inconsistency. It is perfectly agreeable to me to allow it to stand as it is.

Mr. VANDENBERG. Mr. President, before we leave the penalty section may I ask the chairman of the committee if he knows why only the transportation of opium or opium prepared for smoking falls under this ban and not the other narcotics or habit-forming drugs which are thus identified in the Federal statutes?

Mr. SMOOT. That question never arose before the committee, and the committee simply took the existing law.

Mr. VANDENBERG. In other words, opium derivatives or compounds can be brought in; but not opium or smoking opium. Hashish, cannabis indica, and so forth, can be brought in.

Mr. SMOOT. No; if I am not mistaken, the import and export act in regard to opium takes care of what the Senator is now stating; but the question never arose before the committee. If we can agree to this amendment now, I will look up the matter in the meantime, or the Senator can, and I am quite sure it will be found that it is covered.

Mr. VANDENBERG. The Senator would agree that there ought to be a general prohibition?

Mr. SMOOT. Yes; I think, though, that it is in the other act. The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 456, line 18, after the word "deposits," to strike out "in such" and insert "any merchandise in any," so as to read:

Sec. 596. Buildings on boundary: Any person who receives or deposits any merchandise in any building upon the boundary line between the United States and any foreign country, or carries any merchandise through the same, or aids therein, in violation of law, shall be punishable by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both.

Mr. SMOOT. That is just a clarifying amendment.

The amendment was agreed to.

The next amendment was, on page 464, line 14, after the word "permitted," to strike out "And if" and insert "Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, merchandise, or baggage, so forfeited, shall be delivered to the Secretary of the Treasury for disposition in accordance with the provisions of this section. If," and in line 22, after the words "proceeds of," to insert "any," so as to read:

Sec. 611. Same—Sale unlawful: If the sale of any vessel, vehicle, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, merchandise, or baggage so forfeited shall be delivered to the Secretary of the Treasury for disposition in accordance with the provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs



officers: *Provided*, That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only.

The amendment was agreed to.

The next amendment was, on page 468, line 21, after the word "or," to strike out "baggage seized for" and insert "baggage, because of," so as to read:

SEC. 615. Burden of proof in forfeiture proceedings: In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court.

Mr. SMOOT. That is just a clarifying amendment.

Mr. WALSH of Montana. Mr. President, let me inquire of the Senator from Utah whether the word "seized" should not remain in line 21?

Mr. SMOOT. If the Senator will look on line 16 he will see that that is covered. It says:

Or baggage seized under the provisions of any law.

Mr. WALSH of Montana. Yes; but that is a suit brought for forfeiture.

Mr. SMOOT. Yes.

Mr. WALSH of Montana. After the semicolon in line 19 reference is made to other suits—that is, suits brought by the owner of the property to recover it—so it reads:

In all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage—

Now it reads—

or baggage, because of violation of any such law.

This assumes that the property has been taken possession of by the customs officers, and the owner is trying to get it back, or the value of it.

Mr. SMOOT. The word "seized" should not have been there in the first place on line 21. It never ought to have been there. Even if we had not made the amendment, we would have had to strike out that word on line 21.

Mr. WALSH of Montana. I do not think so.

Mr. SMOOT. Above there we say:

Merchandise, or baggage seized under the provisions of any law.

So there is no need of using the word "seized" on line 21, even though we had agreed to the amendment.

Mr. WALSH of Montana. That is not the situation at all. The first part of the paragraph relates to suits brought by the Government to forfeit vehicles seized. The last part relates to actions brought by the owner of the vehicle to recover the value of it from the Government.

Mr. SMOOT. No, Mr. President; the suit is to be brought by the Government to recover in the second case. Both suits are to be brought by the Government.

Mr. WALSH of Montana. There would not be any suit by the Government for the recovery of the value. The last part does not refer to suits by the Government. The last part refers to suits by the owner of the property.

Mr. ROBINSON of Arkansas. Yes; because it places the burden of proof upon the defendant.

Mr. WALSH of Montana. It is perfectly obvious. The language is meaningless unless you have "seized" in it.

Mr. SMOOT. Of course, the burden of proof will be on the defendant in case the Government brings the suit; but that is the position the department takes—that when the vehicle is seized, or in all suits or actions brought for the recovery, the suit is to be brought by the Government of the United States.

Mr. BARKLEY. Mr. President, if the Senator will permit me, referring to what the Senator from Montana says, the words "because of violation of any such law" refer to property seized; that is, to baggage seized for the violation of law.

Mr. SMOOT. Yes.

Mr. BARKLEY. And by striking out the words "seized for" and inserting "baggage, because of," you make that violation of law refer back to all of the preceding language—the vessel and everything else.

Mr. SMOOT. Certainly; it is a "violation of any such law," and that suit would be brought by the Government of the United States.

Mr. BARKLEY. The provision for the Government to bring it is in the language prior to the semicolon. After the semicolon the language refers to the attempt of the owner to recover property that has been seized.

Mr. SMOOT. No, Mr. President; not the attempt of the owner to recover it. The Government of the United States takes action in both cases here. In the first case the action is for the forfeiture of the vessel, and in the second case it is for the recovery of the value or the merchandise. We could not have this read "baggage seized for violation of any such law."

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 469, line 20, before the word "agent," to insert "customs," so as to read:

SEC. 617. Compromise of Government claims by Secretary of Treasury: Upon a report by a collector, district attorney, or any special attorney or customs agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the Solicitor of the Treasury.

Mr. SMOOT. That is the same amendment that has been agreed to two or three times.

The amendment was agreed to.

The next amendment was, on page 470, line 21, after the word "any," to strike out "special" and insert "customs," so as to read:

SEC. 618. Remission or mitigation of penalties: Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this act, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs agent, collector, judge of the United States Customs Court, or United States commissioner, to take testimony upon such petition: *Provided*, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

Mr. SMOOT. That is just the same thing.

The amendment was agreed to.

The next amendment was, on page 471, line 14, after the word "any," to strike out "case." The necessary moneys to pay such awards are hereby appropriated, and this appropriation shall be deemed a permanent and indefinite appropriation" and insert "case, which shall be paid out of moneys appropriated for that purpose," so as to read:

SEC. 619. Award of compensation to informers: Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws, and who reports the same to an officer of the customs, or who furnishes to a district attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury a compensation of 25 per cent of the net amount recovered, but not to exceed \$50,000 in any case, which shall be paid out of moneys appropriated for that purpose. For the purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.

Mr. SMOOT. Mr. President, this amendment has reference to permanent appropriations. I am going to ask that it go over. I desire to call the Senate's attention to the practice that has grown up during 50 years in the Government of the United States, of making permanent appropriations. When they are made permanent, we never consider them; they run on indefinitely, and I suppose will be made forever, no matter how conditions may change.



Mr. ROBINSON of Arkansas. This is not an appropriation bill, anyway.

Mr. SMOOT. No.

Mr. ROBINSON of Arkansas. But the provision that the Senate committee strikes out does constitute an appropriation.

Mr. SMOOT. And it says that it shall be permanent. I will ask that it go over, because I may want to submit some observations on the general subject in connection with this amendment.

The VICE PRESIDENT. The amendment will be passed over. The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 472, line 24, after the name "United States," to insert a comma and "or in respect of residue cargo," so as to read:

SEC. 622. Foreign landing certificates: The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue.

Mr. SMOOT. Mr. President, this clause was inadvertently left out. It is the existing law, and so we put it in. I do not know whether it was left out by the printer or not.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 474, line 12, after the word "as," to strike out "he may deem" and insert "may be," and in line 13, after the word "act," to strike out "and to protect the customs revenue," so as to read:

SEC. 624. General regulations: In addition to the specific powers conferred by this act, the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this act.

Mr. SMOOT. Both amendments simply leave existing law.

The amendment was agreed to.

The next amendment was, on page 476, after line 3, to strike out:

SEC. 642. Investigation of methods of valuation: The President is requested (1) to cause a survey to be made, by such agency or agencies as he may designate or appoint, of bases for the valuation of imported merchandise for the assessment of customs duties, particularly with a view to determining the extent to which values in the United States may properly be used as a basis for the assessment of customs duties; and (2) to submit to the Congress, at the earliest practicable date, a report thereon, with such recommendations for legislation as he may deem advisable, including such formulae as he may propose for adjusting the rates of duty imposed by this act to conform to any change in basis he may recommend. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, to be expended in the discretion of the President.

Mr. SMOOT. Let that go over, because it has reference to the other sections that we have passed over.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, on page 477, after line 4, to strike out:

The Secretary of the Treasury may, by regulations prescribed under the authority of section 7 of the air commerce act of 1926, provide for the application to civil air navigation of any of the provisions of this act or of any regulations promulgated hereunder.

And in lieu thereof to insert:

The authority vested by section 7 of the air commerce act of 1926 in the Secretary of the Treasury, and in the Secretary of Commerce, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, respectively, shall extend to the application in like manner of any of the provisions of this act or of any regulations promulgated hereunder.

Mr. SMOOT. Mr. President, one of the Senators asked me what this meant; and I think a statement on the subject ought to go into the Record at this point.

The House bill provides that the customs provisions contained in the bill shall be subject to application to civil air navigation by regulations prescribed by the Secretary of the Treasury under authority of section 7 of the air commerce act of 1926. This provision has been retained; but inasmuch as the air commerce act also grants authority to the Secretary of Commerce to provide similarly for the application of air navigation to the laws relating to entry and clearance of vessels, the committee amendment has broadened the section to cover both situations. It has been rewritten accordingly.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 477, after line 19, to strike out:

Section 5 of the act entitled "An act to provide the necessary organization of the Customs Service for an adequate administration and enforcement of the tariff act of 1922 and all other customs revenue laws," approved March 4, 1923, as amended, is amended to read as follows:

"SEC. 5. That all customs officers and employees, including customs officers and employees in foreign countries, in addition to their compensation shall receive their necessary traveling expenses and actual expenses incurred for subsistence while traveling on duty and away from their designated station, and when transferred from one official station to another for duty may be allowed, within the discretion and under written orders of the Secretary of the Treasury, the expenses incurred for packing, crating, freight, and drayage in the transfer of their household effects and other personal property, not exceeding in all 5,000 pounds, and, in the case of transfers to or from an official station in a foreign country, or from one official station to another in a foreign country, the actual and necessary travel and subsistence expenses of their families upon such transfers. The expense of transporting the remains of customs officers and employees, who die while in, or in transit to, foreign countries in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses of such interment, at their posts of duty or at home, are hereby authorized to be paid on the written order of the Secretary of the Treasury."

And in lieu thereof to insert:

(a) Transfers in foreign countries: In the case of a transfer to or from an official station in a foreign country, or from one official station to another in a foreign country, customs officers and employees may be allowed, within the discretion and under written orders of the Secretary of the Treasury, the actual and necessary traveling and subsistence expenses of their families in respect of such transfer. The expense of transporting the remains of customs officers and employees who die while in or in transit to foreign countries in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses for such interment, at their posts of duty or at home, are hereby authorized to be paid upon the written order of the Secretary of the Treasury. The expenses authorized by this subdivision shall be paid from the appropriation for the collection of the revenue from customs.

(b) Transfer of household and personal effects: So much of the act entitled "An act to provide the necessary organization of the Customs Service for an adequate administration and enforcement of the tariff act of 1922 and all other customs revenue laws," approved March 4, 1923, as amended, as limits the amount of household effects and other personal property of customs officers and employees for which expenses may be allowed upon transfer from one official station to another, is hereby repealed.

(c) Transportation on foreign ships: Notwithstanding the provisions of section 601 of the merchant marine act, 1928, or of any other law, any allowance, within the limitations prescribed by law, for travel or shipping expenses incurred on a foreign ship by any officer or employee of the Bureau of Customs or the Customs Service, shall be credited if the Secretary of the Treasury certifies to the Comptroller General that transportation on such foreign ship was necessary to protect the revenue.

Mr. ROBINSON of Arkansas. Mr. President, I understand that these provisions are more liberal to the customs officers and employees than the provisions of existing law.

Mr. SMOOT. Yes; that is why we have framed the language in this way. In other words, the Government of the United States pays for the return of the household goods of Army and Navy officers and all other officials of the Government living in foreign countries when they are called back to the United States, but the customs officials never had that privilege. This simply gives them the same privilege all other representatives of the Government living or holding office in foreign countries have.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 480, line 10, in the subhead after "Sec.," to strike out "646" and insert "645."

The amendment was agreed to.

The next amendment was, on page 480, after line 21, to insert:

SEC. 646. Review of decisions of Court of Customs and Patent Appeals: (a) Review on application of either party: So much of section 195 of the Judicial Code, as amended, as reads "in any case in which there is drawn in question the construction of the Constitution of the United States, or any part thereof, or of any treaty made pursuant thereto, or in any other case when the Attorney General of the United States shall, before the decision of the Court of Customs Appeals is rendered, file with the court a certificate to the effect that the case is of



such importance as to render expedient its review by the Supreme Court," is hereby repealed.

(b) Application by American manufacturer or American labor: An American manufacturer, producer, or wholesaler, or a representative of an American labor organization or labor association, appearing as a party in interest in any proceeding under section 501, 515, or 516 of this act, shall have the same right to apply for a review by the Supreme Court of the decision of the United States Court of Customs and Patent Appeals as is accorded to other parties in interest under the provisions of section 195 of the Judicial Code, as amended.

Mr. SMOOT. My colleague [Mr. KING] has asked that this amendment may go over.

Mr. WALSH of Montana. Mr. President, before it is disposed of, I desire to submit an observation. This provides that—

So much of section 195 of the Judicial Code, as amended, as reads "in any case in which there is drawn in question the construction of the Constitution of the United States, or any part thereof, or of any treaty made pursuant thereto, or in any other case when the Attorney General of the United States shall, before the decision of the Court of Customs Appeals is rendered, file with the court a certificate to the effect that the case is of such importance as to render expedient its review by the Supreme Court," is hereby repealed.

Mr. President, it may be quite appropriate, in considering a tariff bill of this character, to make provision concerning appeals from the Court of Customs Appeals, but it is manifestly improper, in a tariff bill, to make provision repealing so important a provision of the Code of Judicial Procedure. Obviously that part of it at least ought to have the consideration of the Committee on the Judiciary, which deals generally with the procedure of courts, and particularly with proceedings in the Supreme Court of the United States. In my judgment, it would be signally unfortunate if the first part of the statute were repealed, namely, "in any case in which there is drawn in question the construction of the Constitution of the United States, or any part thereof, or in any part of any treaty made pursuant thereto, or in any other case when the Attorney General of the United States shall," and so forth.

Mr. SMOOT. That applies only to appeals from the Court of Customs Appeals. Those are the only cases to which it would apply. If the Senator will refer to the Judicial Code, I am sure he will find that this applies simply to appeals from the Court of Customs Appeals. It will go over, however, because my colleague [Mr. KING] has asked that it may go over.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, on page 481, after line 19, to insert:

SEC. 647. Uncertified checks, United States notes, and national banknotes receivable for customs duties: Collectors of customs may receive uncertified checks, United States notes, and circulating notes of national banking associations in payment of duties on imports, during such time and under such rules and regulations as the Secretary of the Treasury shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the duties and for all legal penalties and additions to the same extent as if such check had not been tendered.

Mr. SMOOT. Mr. President, notwithstanding the existing law the practice has always been to receive United States notes for customs duties, and this gives authority of law to what has been the practice.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE PRESIDENT. This completes the committee amendments to Title IV, "Administrative provisions."

#### PROHIBITION ENFORCEMENT

Mr. JONES. Mr. President, Senate Joint Resolution 53, providing for a joint commission of the House and the Senate to look into the matter of the transfer of the Prohibition Unit to the Department of Justice, has been pending for quite a while. Last week the junior Senator from Virginia [Mr. GLASS] asked that it should go over in order that he might get certain information. That has been gotten, and the Senator says he has no objection to the joint resolution. I would like to get rid of it, and I ask that it may be passed with the amendment recommended by the Committee on the Judiciary, which have been agreed to by the Senate.

The VICE PRESIDENT. The Senator from Washington asks that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Senate Joint Resolution 53.

Mr. BINGHAM. Mr. President, in that case we ought to have a quorum present.

Mr. SMOOT. Does the Senator object to the consideration of the joint resolution?

Mr. BINGHAM. There are so few Senators present I think we ought to call a quorum if we are going to take up other business. I have no objection to the joint resolution myself, but I am sure there are others who do object to it.

Mr. JONES. I do not know of anyone who objects to it. The senior Senator from Missouri [Mr. HAWES] offered an amendment at the close of the debate on the joint resolution some time ago, but he has kindly withdrawn that amendment and says he will not press it. The junior Senator from Virginia [Mr. GLASS] was the only one who raised any question last week, and he came to me three or four days ago and said he has no objection to it, and that I could call it up at any time. I do not know of any other Senator who objects. I assume that if anybody else had an objection it would have been made known, because the joint resolution has been up three or four times. It simply provides for a joint commission to carry out the special message of the President.

Mr. McKELLAR. Mr. President, I just came into the Chamber. Will not the Senator state what is his proposal?

Mr. JONES. Senate Joint Resolution 53, to provide for a joint congressional commission to study the proposition of transferring the Prohibition Unit to the Department of Justice has been debated heretofore, and I am now asking for action on it.

Mr. MOSES. May I ask the Senator what is to be gained by passing it now, when the House is not in session? What is the hurry?

Mr. JONES. The only hurry is that I would like to get rid of it. It was debated for the better part of a day and the discussion was practically closed.

Mr. MOSES. That hardly seems to be adequate, and I object.

Mr. JONES. Very well. The President is anxious to have it passed, and I have done all I could to get it through.

#### BURIAL IN FRANCE OF WORLD WAR SOLDIERS FROM KANSAS

Mr. CAPPER. Mr. President, Kansas is frequently referred to as the "Soldier State." It was born during the trying days of the Civil War, and sent into that conflict more soldiers than it had voters at the time. It was settled largely by men returning from that war who took up homesteads within its borders. A great majority of the population of the State is made up of descendants of those veterans.

Kansas soldiers have had a conspicuous part in every war in which the Nation has participated since it was admitted to statehood. Its soldiers have been in the front rank whenever it became necessary to defend the flag.

In common with other States, Kansas sent the flower of its young manhood into the World War. Thousands of them made the supreme sacrifice in that world conflagration. The bodies of several hundred of the dead, heroes all, have been returned to the homeland and laid to rest near loved ones. Other hundreds sleep in the soil of France, where they fell. Their names are written imperishably on the honor rolls of the Republic. There is no physical thing we can now do for them. We can only join, all too inadequately, in honoring their memory.

Mr. President, I send to the desk a list containing the names, grave numbers, and cemeteries in which the graves of Kansas soldiers buried in France are located. As a further mark of honor and respect to them and in order that this information may be preserved for posterity as a part of the official records of the Congress, I ask that this list be printed in the CONGRESSIONAL RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

#### Deceased soldiers from Kansas buried in cemeteries in Europe

Name	Rank and organization	Grave	Row	Block
FLANDERS FIELD-AMERICAN CEMETERY, NO. 1252				
Anderson, Lionel A.	1st Lt. M. R. C., Attd. No. 48 Cas. 91st Div. clearing station.	2	1	D
AISNE-MARNE CEMETERY, NO. 1764				
Kelly, Sidney	Cpl. Co. I, 18th Inf., 1st Div.	54	7	B
Reil, Joseph	Pvt. Co. H, 9th Inf. 2d Div.	18	9	A
Johnson, Julius S.	Muse. 3 cl. Hq. Co., 23d Inf., 2d Div.	33	1	B
Hopp, George A.	Sgt. 1 cl. Co. D 2d Eng., 2d Div.	31	2	A
Ames, Bert Evert	Cpl. 47th Co. 5th Reg. U. S. Marine Corps.	33	3	B
Dumars, Wm. Wilbur	Pvt. 17th Co. 5th Reg. 2d Div. Marine Corps.	19	11	A
Rishel, Joseph Lysle	Pvt. 16th Co., 5th Reg. 2d Div. Marine Corps.	61	4	B



## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
<b>AISNE-MARNE CEMETERY, NO. 1764—continued</b>				
Wood, Howard Bailey	Cpl. 16th Co. 5th Reg., 2d Div. Marine Corps.	45	10	A
Storey, Adel Moore	Cpl. 83d Co., 6th Reg., 2d Div. Marine Corps.	68	9	B
Brunkow, Ernest E.	Pvt. Co. A., 7th Inf., 3d Div.	83	2	A
Dooley, Roy H.	Pvt. 1 cl., Co. C, 7th Inf., 3d Div.	35	12	A
Durham, James A.	Pvt. Co. A, 7th Inf., 3d Div.	52	11	A
Nicholas, Samuel R.	Pvt. Co. B, 7th Inf., 3d Div.	52	3	A
Patterson, Charles E.	Pvt. 1 cl., Co. A, 7th Inf., 3d Div.	70	10	A
Banta, Loren D.	Cpl. Co. G, 30th Inf., 3d Div.	51	10	A
Meyer, John Gerhardt	Pvt. Co. M, 30th Inf., 3d Div.	25	11	A
White, John B.	1st Lt. Co. A, 38th Inf., 3d Div.	17	10	A
Becker, Clarence H.	Pvt. Bty. B, 18th Field Art., 3d Div.	18	2	B
Coleman, Lowell F.	Cpl. Co. A, 4th Eng., 4th Div.	23	11	A
Schisler, John	Pvt. Co. E, 103d Inf., 26th Div.	21	12	B
Walrod, Jesse L.	Pvt. 1 cl., Co. A, 150th Mac. Gun Bat., 42d Div.	14	7	A
Eckler, Robert	Pvt. Bty. E, 337th Field Art., 88th Div.	4	8	B
Olson, Theodore H.	Pvt. Sup. Co., 337th Field Art., 88th Div.	27	6	B
Molinere, Victor N.	Wag. Bty. D, 339th Field Art., 88th Div.	4	10	B
Smith, Glenn Irvin	Cpl. Bty. C, 339th Field Art., 88th Div.	26	5	B
Geisinger, George C.	Pvt. Co. D, 313th Amm. Train, 88th Div.	30	7	B
<b>ST. MIHIEL AMERICAN CEMETERY, NO. 1233</b>				
Mitchell, Edward	Cpl. Co. I, 26th Inf. 1st Div.	24	13	B
Radloff, Arthur H.	Pvt. Co. F, 26th Inf. 1st Div.	36	28	A
Elstun, Eugene W.	Pvt. Co. M, 26th Inf. 1st Div.	26	13	C
Newlee, Claud A.	Pvt. Bty. F, 6th Field Art. 1st Div.	20	5	B
Jacky, Benjamin	Saddler, Hq. Troop, 1st Div.	7	13	A
Ellenberger, Wm.	Sgt. M. G. Co. 23d Inf., 2d Div.	23	1	D
Kearns, Thomas W.	Pvt. 1 cl. Co. D, 2d Eng. 2d Div.	13	9	B
Baker, Ralph V.	Farrier, Bty G, 15th Field Art. 2d Div.	5	11	D
Madden, Harry	Cpl. Hq. Co. 7th Inf. 3rd Div.	7	2	C
James, Charles F.	Pvt. Co. C, 64th Inf. 7th Div.	20	17	A
Gustafson, Richard C.	Pvt. Co. H, 103d Inf. 26th Div.	19	29	C
Branch, Ralph A.	2d Lt. Co. M, 109th Inf. 28th Div.	18	13	A
Fleming, Harry	Cpl. Co. B, 112th M. G. Bn., 29th Div.	9	7	A
Creek, Wm. P.	Sgt. Hq. Co., 137th Inf., 35th Div.	34	8	A
Kinnard, Arthur Richard	Pvt. 1 cl., Co. K, 137th Inf., 35th Div.	10	13	C
Ceas, Lester W.	Pvt. Co. C, 139th Inf. 35th Div.	17	7	C
Snell, Clyde E.	do	36	10	C
Brewer, John H.	Pvt. Hq. Det., 60th Field Art. Brig. 35th Div.	35	23	D
Oliver, Ralph I.	Pvt. 1 cl. Bty. B, 130th Field Art. 35th Div.	23	9	B
Ducet, Jean L.	Pvt. Co. D, 308th Inf. 77th Div.	30	25	B
Gates, Chester A.	Pvt. Co. A, 313th Amm. Train, 88th Div.	12	9	C
Aleksiehes, Toni	Pvt. Co. F, 353d Inf., 89th Div.	29	7	A
Andrews, Ivan Earl	Pvt. Co. A, 353d Inf., 89th Div.	28	3	D
Bartell, Elmer E.	Sgt. Co. E, 353d Inf., 89th Div.	32	6	C
Bennett, Vernon R.	Pvt. Co. A, 353d Inf., 89th Div.	18	26	D
Bosseck, Lorane	Pvt. Co. M, 353d Inf., 89th Div.	15	6	D
Bougher, George A.	Pvt. Co. A, 353d Inf., 89th Div.	21	14	B
Brogden, Joseph D.	Cpl. Co. E, 353d Inf., 89th Div.	14	3	B
Clendening, Foster J.	Pvt. Co. B, 353d Inf., 89th Div.	25	13	B
Defrees, Albert C.	Cpl. Co. C, 353d Inf., 89th Div.	15	7	B
Eckhart, John F.	Pvt. Co. K, 353d Inf., 89th Div.	26	28	C
Fiorinzi, Frank	Pvt. Co. A, 353d Inf., 89th Div.	20	21	A
Grant, Zachary A.	Pvt. Co. K, 353d Inf., 89th Div.	23	3	B
Hamil, Lester D.	Sgt. Co. B, 353d Inf., 89th Div.	29	2	C
Heim, Aloysius	Pvt. Co. G, 353d Inf., 89th Div.	4	22	D
Henrich, Samuel C.	Pvt. Co. E, 353d Inf., 89th Div.	20	6	C
Kelsey, Floyd J.	Pvt. Co. C, 353d Inf., 89th Div.	25	25	B
Lantis, Leo	Cpl. Co. F, 353d Inf., 89th Div.	23	2	C
McDonald, Ralph C.	Pvt. Co. E, 353d Inf., 89th Div.	36	15	C
Miller, Gerald L.	Pvt. 1 cl. Co. L, 353d Inf., 89th Div.	19	18	B
Raible, Joseph R.	Cpl. Co. L, 353d Inf., 89th Div.	23	6	C
Raymond, Jesse C.	Sgt. Co. E, 353d Inf., 89th Div.	33	11	D
Riley, Wm. S.	Pvt. 1 cl. Co. M, 353d Inf., 89th Div.	19	2	B
Romack, Francis R.	Cpl. Co. G, 353d Inf., 89th Div.	23	21	D
Schneikart, Rudolph	Pvt. Co. M, 353d Inf., 89th Div.	28	2	D
Sharp, Frank W.	Cpl. Co. B, 353d Inf., 89th Div.	17	2	C
Sparling, Clare Frisbie	Cpl. Co. E, 353d Inf., 89th Div.	25	3	B
Stamm, Boyd	Pvt. Co. F, 353d Inf., 89th Div.	28	15	C
Strasser, Wm. Edward	do	12	1	C
Tucker, Fred L.	Pvt. 1 cl. Co. D, 353d Inf., 89th Div.	4	22	C
Weaver, Herman	Pvt. Co. E, 353d Inf., 89th Div.	6	24	D
Wheeler, Clarence W.	Pvt. Co. A, 353d Inf., 89th Div.	29	8	C
Winmer, Lawrence M.	Sgt. Co. D, 353d Inf., 89th Div.	18	11	C
Phipps, Clyde R.	Pvt. Co. K, 356th Inf., 89th Div.	4	7	C
Satterlee, Ray	Pvt. Co. M, 356th Inf., 89th Div.	22	20	D
Saunders, Gladwyn M.	Pvt. 1 cl. Co. L, 356th Inf., 89th Div.	3	18	C
Springer, Simon Bolivar	Cpl. Co. I, 356th Inf., 89th Div.	36	21	D
Starks, Wm. H.	Pvt. Co. G, 356th Inf., 89th Div.	32	24	B
Nichols, John N.	Pvt. Co. E, 314th Trench Mor- tar Btry., 89th Div.	5	10	C

## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
<b>ST. MIHIEL AMERICAN CEM- ETERY, NO. 1233—con.</b>				
Russell, Samuel D.	Pvt. Co. B, 314th Military Police, 89th Div.	13	15	B
Austrom, Fred G.	2d Lt., 3 A. I. C. Air Service, Aviation Instruction Centers.	14	27	A
Tisdale, Arthur S.	Pvt. 116th Bal. Co. Air Service	12	6	C
James, Harry R.	Pvt. Co. E, 34 Engrs.	23	16	A
Gray, Granville	Cpl. 306th Bakery Co. Q. M. C. Non-Div.	8	6	B
Higgins, Clarence L.	Pvt. B. H. No. 86, Med. Dept. Non-Div.	9	10	A
Bruce, Everett	Pvt. Co. D, 806 Pion. Inf.	8	23	C
Edmonds, Clayton E.	Sgt. Co. C, 329th B. T. C. Non- Div.	34	18	D
<b>SOMME CEMETERY, NO. 636</b>				
Sutherland, Richard H.	Pvt. Hq. Co., 18th Inf., 1st Div.	1	12	C
Tate, Albert L.	Cpl. Co. F, 18th Inf., 1st Div.	14	18	C
Campbell, Chick M.	Wag. Sup. Co. 5 F. A.	13	9	D
Norrell, Henry W.	Pvt. Co. I, 107th Inf., 27th Div.	13	5	B
Johnson, Clarence E.	Pvt. M. G. Co. 108th Inf., 27th Div.	4	3	B
Brown, Lee I.	Pvt. 11 Engrs., Coast Art. Corps Non-Combatant.	3	33	A
Weibel, Ernest E.	Capt. Co. B, 29 Engrs. Non- Combatant.	7	33	A
<b>OISE-AISNE CEMETERY, NO. 638</b>				
Andrews, Albert	Sup. Sgt., Co. I, 16th Inf., 1st Div.	9	37	A
Giles, George R.	Pvt. 1 cl. M. G. Co., 16th Inf., 1st Div.	14	9	C
Adams, Wm. T.	Sgt. Co. D, 18th Inf., 1st Div.	28	23	C
Cobeldick, John Henry	Sgt. 8th Co., 5th Reg. U. S. Marines.	10	9	C
Axline, Ralph Cartan	Pvt. 80th Co., 6th Reg. U. S. Marines.	29	22	C
Gleason, John Wm., jr.	Pvt. 90 Co., 6th Reg. U. S. Marines.	9	23	C
Ogier, Clifton E.	Pvt. Co. H, 4th Infantry, 3d Div.	37	11	C
Maxwell, Charley	Pvt. Co. B, 7th Inf., 3d Div.	28	28	A
Deines, David	Cook Co. H, 30th Inf., 3d Div.	25	26	B
Lutjohann, John	Pvt. Co. H, 30th Inf., 3d Div.	26	23	A
Miller, Charles H.	Pvt. Hq. Co. 30th Inf., 3d Div.	25	19	B
Park, Charles E.	Pvt. Co. G, 30th Inf., 3d Div.	18	19	A
Stauffer, James Leroy	Cpl. Co. H, 30th Inf., 3d Div.	35	23	A
Vodraska, Anton J.	Pvt. Co. H, 30th Inf., 3d Div.	36	24	A
Schauer, Lawrence J.	Pvt. 1 cl. Hq. Co., 30th Inf., 3d Div.	25	11	D
Travis, John M.	Pvt. Bty. D, 10th Field Art., 3d Div.	4	20	B
Mitchell, Roland A.	Pvt. Bty. F, 18th Field Art., 3d Div.	21	16	B
Durham, Oliver F.	Pvt. Co. D, 102 Inf., 26th Div.	31	7	A
Schwinn, Thomas	2d Lt. Co. M, 109th Inf., 28th Div.	5	25	C
Busch, Ralph S.	1st Lt. Co. E, 11th Inf., 28th Div.	15	7	D
McMinimy, Joseph L.	2d Lt. Co. E, 166th Inf., 42d Div.	7	2	B
Norris, Joseph R.	Pvt. 1 cl. Co. E, 168th Inf. 42d Div.	33	10	B
Gotschall, Howard	Wag. Co. C, 117 Amm. Train.	33	3	A
Scott, Charley E.	do	31	3	A
Sandhagen, George W.	Pvt. 1 cl. Co. B, 338 M. G. Bn., 88th Div.	11	23	B
Delzeit, Edward N.	Cpl. Co. K, 353 Inf., 89th Div.	6	12	C
Taylor, George Daniel	Pvt. Co. L, 355 Inf., 89th Div.	21	22	B
McCormick, Wm. Ike	Pvt. Bty. A, 342 F. A., 89th Div.	12	32	B
McWilliams, Charles C.	Pvt. 1 cl. 10 Dep. Lab. Co., Adm. Lab. Co. Non-Div.	24	39	D
Bly, Henry	Cook, Co. M, 806 P. I. Non-Div.	27	17	C
Linger, Joseph A.	Pvt. 302 Refrigerating Co., Q. M. C. Non-Div.	8	20	D
Brueggeman, Herman F.	Pvt. 320 Field Remount Sqdn., Q. M. C. Non-Div.	22	20	C
Bush, Harry F.	Sgt. 320 Field Remount Sqdn., Q. M. C. Non-Div.	28	22	D
Edwards, Horace O.	Pvt. 305 Field Remount Sqdn., Q. M. C. Non-Div.	11	11	C
Moore, Robert J.	Pvt. 1 cl. 58th Co., Transporta- tion Corps, Non-Div.	27	2	C
Nowers, Paul	2d Lt. Hq. Trans. Corps, Non- Div.	34	26	C
Bryant, James R.	Cook, B. H. 32, Base Hosp., Non-Div.	2	33	A
Williams, Earl H.	Pvt. B. H. Med. Dept. Non- Div.	29	24	D
Charlton, John W.	Sgt. 1 cl. Unit 18, Replacement Drafts, Med. Dept. Non-Div.	24	18	B
Dorsey, Joseph W.	Pvt. Co. 18, Cp. McArthur Sard, Replacement Regi- ments, Non-Div.	32	17	C
Reeh, Joseph M.	Pvt. 22 Co. Cp. Pike Sard, Re- placement Regiments, Non- Div.	24	33	A
Willard, Cleveland	Pvt. 4 Prov. Co., Cp. Funston A. R. D. Replacement Reg. Non-Div.	8	7	B
Shue, Herschel L.	Pvt. Co. D, 410 Tel. Bn. Signal Corps, Non-Div.	1	16	D
<b>BROOKWOOD CEMETERY, NO. 107-E</b>				
Woodcox, Ernest E.	Pvt. 259 Aero Sqdn., Non-Div.	7	4	B



## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
<b>SURESNE AMERICAN CEMETERY, NO. 34</b>				
Cooper, Albert C.	Pvt. Co. G, 127th Inf. 32d Div.	3	8	B
Beard, Ralph R.	Pvt. 1 cl. Co. C, 309th Field Sig. Bn. 84th Div.	2	7	A
Beam, August	Pvt. 1 cl. Co. A, 313th Amm. Train, 88th Div.	20	5	B
Young, Lawrence E.	Pvt. Co. B, 313th Amm. Train, 88th Div.	26	2	C
Rabideau, Henry M.	Pvt. Bty. E, 338th Field Art., 88th Div.	23	14	A
Stevenson, Wilbur A.	Pvt. 1 cl. Co. B, 353d Inf., 89th Div.	19	14	A
Nester, Albert C.	Pvt. Co. F, 355th Inf., 89th Div.	28	9	B
Atkinson, Clarence	Pvt. Co. G, 357th Inf., 90th Div.	19	17	A
Castle, John R.	Sgt. Hq. Det., 31st Engrs.	14	4	C
Chandler, Sherman Francis	Pvt. Co. F, 32d Engrs.	17	6	A
Fletcher, Floyd Leslie	Cpl., American Education Comm.	18	10	B
Hale, Cas. C.	Sgt. 1 cl. 35th Serv. Co., S. C.	1	14	B
Newton, Bert L.	Cpl., 388th Bakery Co., Q. M. C.	14	1	A
Herman, John Oliver	Pvt. Co. F, 319th Fld. Rem. Sq., Q. M. C.	20	14	A
Knox, Arthur Roy	Pvt. 319th Fld. Rem. Sq., Q. M. C.	31	2	B
Smith, Leroy	Cpl., 322d Fld. Rem. Sq., Q. M. C.	28	6	A
Mosher, Arthur B.	Pvt., P. E. S.	29	13	B
<b>MEUSE-ARGONNE CEMETERY, NO. 1232</b>				
Berry, Earl Noble	Cpl. Co. D, 16th Inf., 1st Div.	8	15	E
Davis, John O.	Cpl. Co. K, 16th Inf., 1st Div.	21	34	C
Manning, Richard S.	Pvt. Co. H, 18th Inf., 1st Div.	32	25	F
Yokem, Virgil L.	Pvt. Co. L, 18th Inf., 1st Div.	36	5	E
Pilcher, Arthur	Pvt. Med. Det., 2d Machine Gun Bn., 1st Div.	5	30	B
Trowbridge, Carl Boyl.	1st Lt. 1st Engineers, 1st Div.	8	18	A
Smith, Hollis M.	Cpl. Co. L, 23d Inf., 2d Div.	40	40	B
Setser, Wm. H.	Pvt. 1 cl. Bty. F, 15th Field Art., 2d Div.	20	23	G
Umphenour, Chester G.	Sgt. Bty. C, 17th Field Art., 2d Div.	2	5	G
Hunter, Hale	Pvt. Co. D, 2d Engr., 2d Div.	35	18	F
Kennedy, Wm. Henry	Pvt. 51st Co., 5th Regt. U. S. Marine Corps, 2d Div.	7	1	A
Smith, Peter Sterling	Pvt. 67th Co., 5th Regt. U. S. Marine Corps, 2d Div.	18	4	B
Miller, Charlie Otto	Pvt. 80th Co., 6th Regt. U. S. Marine Corps, 2d Div.	24	32	H
Slaymaker, Harry B.	1st Lt. Co. F, 4th Inf., 3d Div.	13	14	A
Kline, Warren S.	Pvt. Co. K, 4th Inf., 3d Div.	33	8	D
Cole, Joseph A.	Pvt. Co. K, 7th Inf., 3d Div.	5	40	E
Fulk, Fred	Cpl. Co. A, 7th Inf., 3d Div.	20	20	C
Mann, Clarence Ellsworth	Pvt. Co. L, 7th Inf., 3d Div.	1	27	F
Pfannenstiel, Alex A.	Sgt. Co. L, 7th Inf., 3d Div.	3	27	D
Smith, Peter E.	Pvt. Co. I, 7th Inf., 3d Div.	3	23	E
Biernacki, Joseph S.	Cpl. Co. G, 30th Inf., 3d Div.	3	6	D
Brouillette, John V.	do	38	9	H
Carmel, Louis	Pvt. Co. H, 30th Inf., 3d Div.	11	18	C
Gilson, Carl E.	Pvt. Co. G, 30th Inf., 3d Div.	15	22	O
Bevis, Glen L.	Pvt. Co. H, 38th Inf., 3d Div.	13	3	H
Hendricks, Raymond	Cpl. Co. M, 38th Inf., 3d Div.	2	2	C
Roberts, Harry B.	Pvt. Co. M, 38th Inf., 3d Div.	8	5	E
Snow, Roy R.	Cpl. Co. I, 38th Inf., 3d Div.	21	8	E
Zemke, Carl A.	Cpl. Co. L, 38th Inf., 3d Div.	27	5	E
Terry, Paul	M. S. E. 5th Field Signal Bn.	15	4	D
Henry, Joe	Sgt. Co. I, 39th Inf., 4th Div.	17	37	D
Cole, Harold F.	Mech. Co. K, 59th Inf., 4th Div.	31	43	B
Smith, Robert S.	Cpl. Bty. A, 16th Field Art., 4th Div.	9	23	C
Sharp, Thomas V.	Pvt. 1 cl. Co. F, 6th Inf., 5th Div.	9	21	G
Blakely, Victor K. D.	2d Lt. Co. A, 11th Inf., 5th Div.	20	23	F
Hollingsworth, Harry E.	Cook, Co. A, 11th Inf., 5th Div.	17	2	H
Hand, John P.	Pvt. Co. K, 60th Inf., 5th Div.	29	15	B
Johnson, Carl D.	Pvt. 1 cl. Co. M, 60th Inf., 5th Div.	38	12	H
Lagrone, Robert E.	Wag. Co. B, 13 M. G. Bn., 5th Div.	2	13	B
Berg, Jack	Pvt. 1 cl. Co. D, 15 M. G. Bn., 5th Div.	35	9	B
Bale, Mike	Pvt. 1 cl. Co. D, 7 Engineers, 5th Div.	25	20	B
Lane, Albert S.	Sgt. Co. B, 7 Engineers, 5th Div.	21	2	E
Mosher, William	Pvt. Co. D, 7 Engineers, 5th Div.	39	14	H
McCullum, Benjamin F.	Pvt. Co. A, 103d Inf., 26th Div.	1	28	G
Fawcett, David	Pvt. Co. B, 104th Inf., 26th Div.	16	40	A
Mathes, Floyd M.	Pvt. Co. C, 109th Inf., 28th Div.	33	32	E
Campbell, Robert F.	Pvt. Co. I, 126th Inf., 32d Div.	22	8	A
Daniels, Fred	Cpl. Co. L, 128th Inf., 32d Div.	25	5	A
Pierce, Frank	Pvt. Co. B, 128th Inf., 32d Div.	15	43	B
Taylor, Chris A.	Cpl. Co. M, 128th Inf., 32d Div.	2	36	E
Dorsey, Eli Ferrell	1st Lt. Hq. Co., 137th Inf., 35th Div.	17	24	H
Keller, Clyde R.	1st Lt. Co. I, 137th Inf., 35th Div.	2	40	O
Andrews, Harold R.	Sgt. Co. K, 137th Inf., 35th Div.	36	39	E
Armstrong, Bliss A.	Pvt. Co. C, 137th Inf., 35th Div.	40	36	C
Arnold, Edward R.	Pvt. 1 cl. Co. H, 137th Inf., 35th Div.	10	6	O
Ashley, Lloyd E.	Pvt. Co. L, 137th Inf., 35th Div.	31	32	F
Asplund, Robert A.	Mech. Co. A, 137th Inf., 35th Div.	9	4	O
Blackledge, Walter M.	Sgt. Co. K, 137th Inf., 35th Div.	7	35	H
Blankenship, Bert M.	Cpl. Co. F, 137th Inf., 35th Div.	26	13	G
Boyles, Arthur L.	Cpl. Co. M, 137th Inf., 35th Div.	11	22	B
Brown, Henry F.	Cpl. Co. C, 137th Inf., 35th Div.	5	8	F

## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
<b>MEUSE-ARGONNE CEMETERY, NO. 1232—COD.</b>				
Brown, Paul R.	Sgt. Co. B, 137th Inf., 35th Div.	32	35	B
Carnes, Earl E.	Pvt. 1 cl. Co. G, 137th Inf., 35th Div.	14	42	F
Cochran, Julian Oard	Cpl. Co. G, 137th Inf., 35th Div.	26	15	G
Congdon, Hobson R.	Pvt. Co. C, 137th Inf., 35th Div.	17	25	D
Davies, George T.	Cpl. Co. G, 137th Inf., 35th Div.	12	11	B
Deefries, Ruel E.	Cpl. Co. A, 137th Inf., 35th Div.	5	1	A
Demeritt, Everitt	Cpl. Co. H, 137th Inf., 35th Div.	15	36	G
Dewlin, Otis G.	Pvt. 1 cl. Co. K, 137th Inf., 35th Div.	31	35	C
Doll, Claude B.	Pvt. Co. I, 137th Inf., 35th Div.	40	23	G
Ferguson, Sidney F.	Pvt. 1 cl. Co. H, 137th Inf., 35th Div.	16	1	B
Flori, Seraphin	Cpl. Co. M, 137th Inf., 35th Div.	21	40	D
Gibson, Hugh H.	Pvt. 1 cl. Co. M, 137th Inf., 35th Div.	1	28	B
Harkey, Clair C.	Pvt. 1 cl. Co. G, 137th Inf., 35th Div.	33	34	E
Hodgson, Carroll D.	Pvt. 1 cl. Co. C, 137th Inf., 35th Div.	7	24	H
Hoehn, Isadore J.	Pvt. Co. H, 137th Inf., 35th Div.	2	34	E
Horton, Francis A.	Cpl. Co. B, 137th Inf., 35th Div.	13	44	A
Hughes, Bert F.	Pvt. Co. L, 137th Inf., 35th Div.	15	41	O
Hull, Clarence M.	Cpl. Co. C, 137th Inf., 35th Div.	15	43	H
Jeffords, Paul	Cpl. Co. A, 137th Inf., 35th Div.	8	22	D
Kimble, Herman	Cpl. Co. L, 137th Inf., 35th Div.	37	38	H
Kreps, Leslie W.	Pvt. 1 cl. 137th Inf., 35th Div.	13	29	D
Layton, Fred	do	37	33	C
Lieurance, Clarence J.	Pvt. Co. L, 137th Inf., 35th Div.	36	36	F
Lisenbee, Joseph I.	Pvt. Co. A, 137th Inf., 35th Div.	32	9	D
Malherbe, Arthur L.	Pvt. 1 cl. 137th Inf., 35th Div.	32	37	E
Malm, Andrew	Pvt. Sup. Co., 137th Inf., 35th Div.	39	45	A
Manning, Lauren T.	Pvt. Co. M., 137th Inf., 35th Div.	20	15	E
McAlister, John	Pvt. Co. C, 137th Inf., 35th Div.	30	43	H
McCracken, Jesse E.	Pvt. Co. L, 137th Inf., 35th Div.	4	7	D
McDuffie, Norman L.	Cook, Sup. Co., Inf., 35th Div.	11	34	F
McMahan, Ira E.	Pvt. Co. D, 137th Inf., 35th Div.	18	21	G
Mettler, Lee	Pvt. Co. K, 137th Inf., 35th Div.	2	44	O
Mitschler, Paul Henry	Cpl. Co. I, 137th Inf., 35th Div.	6	21	A
Munkers, Gilmer H.	Pvt. Co. A, 137th Inf., 35th Div.	33	5	A
Munson, Charles D.	Pvt. 1 cl. Co. B, 137th Inf., 35th Div.	14	34	A
Musser, Jo. D.	Pvt. 1 cl. Co. M, 137th Inf., 35th Div.	35	44	B
Noel, Wm. B.	Pvt. 1 cl. Co. B, 137th Inf., 35th Div.	8	35	D
Pearson, Varland	Sgt. Co. I, 137th Inf., 35th Div.	40	10	B
Phillips, Theodore	Pvt. Co. C, 137th Inf., 35th Div.	18	44	A
Raber, Walter E.	Pvt. Co. B, 137th Inf., 35th Div.	26	26	D
Ream, Leland L.	Pvt. Co. C, 137th Inf., 35th Div.	34	22	B
Richards, Aden R.	Pvt. Co. B, 137th Inf., 35th Div.	40	14	B
Rowe, Horace D.	Pvt. Co. A, 137th Inf., 35th Div.	38	1	F
Scheufler, Wm. F.	Bug. Co. C, 137th Inf., 35th Div.	22	27	F
Schwaub, John H.	Pvt. 1 cl. 137th Inf., 35th Div.	19	19	G
Shirkey, Earl F.	Cpl. Co. I, 137th Inf., 35th Div.	27	31	B
Sloan, Wm. E.	Mech. Co. I, 137th Inf., 35th Div.	23	28	C
Suppes, George	Pvt. Co. H, 137th Inf., 35th Div.	3	34	E
Swain, Roy	Pvt. 1 cl. Co. I, 137th Inf., 35th Div.	4	33	F
Taylor, Earle W.	Sgt. Co. F, 137th Inf., 35th Div.	31	35	B
Taylor, Howard E.	Pvt. Hq. Co., 137th Inf., 35th Div.	28	27	O
Walters, Charles	Sgt. Co. D, 137th Inf., 35th Div.	18	8	D
Way, Floyd L.	Cpl. Co. A, 137th Inf., 35th Div.	4	12	E
Wildner, Thomas E.	Cpl. Co. F, 137th Inf., 35th Div.	1	36	B
Wynore, Percy F.	Pvt. Co. I, 137th Inf., 35th Div.	37	40	D
Parker, Henry W.	Lt. col. 138th Inf., 35th Div.	5	1	F
Campbell, Leslie J.	2d Lt. Co. C., 138th Inf., 35th Div.	20	25	E
Bates, Percy J.	Cpl. Co. L, 138th Inf., 35th Div.	32	29	F
Felman, Alphonse J.	Pvt. Co. B, 138th Inf., 35th Div.	13	22	B
Max, Fred	Pvt. Co. M, 138th Inf., 35th Div.	23	44	B
Foult, Wm. S.	Pvt. Co. D, 138th Inf., 35th Div.	37	32	F
Irwin, Paul S.	Pvt. 1 cl. Co. E, 138th Inf., 35th Div.	25	16	D
Lemmie, Fred H.	Pvt. Co. B, 138th Inf., 35th Div.	34	37	E
Seichepine, Edward C.	do	34	5	C
Shaw, Walter W.	Pvt. 1 cl. Co. C, 138th Inf., 35th Div.	13	23	F
Alvord, Joseph O.	Pvt. Co. I, 139th Inf., 35th Div.	10	19	G
Coate, Frank D.	Sgt. Co. D, 139th Inf., 35th Div.	16	30	F
Curran, Mark S.	Pvt. 1 cl. Co. H, 139th Inf., 35th Div.	8	11	O
Cutler, James R.	Cpl. Co. H, 139th Inf., 35th Div.	5	4	E
Day, Warren L.	Pvt. Co. F, 139th Inf., 35th Div.	4	9	F
Gillen, Glenn C.	Cpl. Co. D, 139th Inf., 35th Div.	40	45	B
Gordon, James	Cpl. Co. F, 139th Inf., 35th Div.	10	4	C
Hood, George W.	Pvt. 1 cl. Co. F, 139th Inf., 35th Div.	16	10	E
Hudson, Leslie A.	Pvt. 1 cl. Co. B, 139th Inf., 35th Div.	11	33	H
Jones, Earl L.	Sgt. Co. C, 139th Inf., 35th Div.	15	11	C
Jordan, Harold M.	Pvt. Co. H, 139th Inf., 35th Div.	21	37	H
Kelsey, Harry R.	1st Sgt. Co. E, 139th Inf., 35th Div.	16	23	B
Lamb, Perry A.	Pvt. Hq. Co., 139th Inf., 35th Div.	16	1	H
Landes, Roy E.	Pvt. Co. E, 139th Inf., 35th Div.	7	25	D
Lindsay, Nat M.	Cpl. Co. F, 139th Inf., 35th Div.	6	2	A
Love, Rams S.	Pvt. 1 cl. Co. F, 139th Inf., 35th Div.	6	3	O
Mack, Arthur L.	Pvt. Co. B, 139th Inf., 35th Div.	23	6	D
McMillen, Ralph E.	Pvt. Co. K, 139th Inf., 35th Div.	7	34	A
Monroe, Elmer L.	Pvt. 1 cl. Co. H, 139th Inf., 35th Div.	20	10	F
Peters, Leslie L.	Cpl. Co. E, 139th Inf., 35th Div.	40	15	F



## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
MEUSE-ARGONNE CEMETERY NO. 1232—con.				
Pratt, Wm. M.	Cpl. Co. B, 139th Inf., 35th Div.	18	22	F
Richardson, Roy R.	Pvt. 1 cl. Co. F, 139th Inf., 35th Div.	40	25	G
Ricord, Edwin O.	Mech. Co. F, 139th Inf., 35th Div.	23	2	A
Rosenkrantz, Ike	Pvt. Co. E, 139th Inf., 35th Div.	33	36	A
Shook, Anthony	Pvt. 1 cl. Co. H, 139th Inf., 35th Div.	34	9	E
Shook, Grover	Pvt. Co. H, 139th Inf., 35th Div.	13	2	A
Smith, Frank	Cpl. Co. G, 139th Inf., 35th Div.	24	5	E
Stout, Earl H.	Pvt. Co. E, 139th Inf., 35th Div.	37	25	B
Surprenaut, Carl B.	Pvt. 1 cl. Co. C, 139th Inf., 35th Div.	31	12	F
Warren, Ben C.	Cpl. Co. E, 139th Inf., 35th Div.	40	33	C
Zidek, Rafael L.	Pvt. Co. B, 139th Inf., 35th Div.	24	14	D
Bowden, James	do.	19	44	D
Brown, Gordon M.	Cpl. Co. K, 139th Inf., 35th Div.	35	18	A
Corlberg, John E.	Pvt. Co. M, 140th Inf., 35th Div.	10	19	D
Crook, Oren B.	Pvt. Co. H, 140th Inf., 35th Div.	12	19	E
Derby, John Francis	Pvt. 1 cl. Co. K, 140th Inf., 35th Div.	5	43	H
Foltz, Lester L.	Cpl. Co. E, 140th Inf., 35th Div.	2	1	E
Fox, Charles Edward	Cpl. Co. L, 140th Inf., 35th Div.	10	31	B
Hoppas, Charles T.	Pvt. Co. L, 140th Inf., 35th Div.	5	19	B
McConnell, Edward J.	Pvt. 1 cl. Co. K, 140th Inf., 35th Div.	17	43	H
Ritter, Ray W.	Cpl. Co. B, 140th Inf., 35th Div.	13	40	A
Bunkle, Fred E.	Pvt. Co. B, 140th Inf., 35th Div.	17	2	C
Seymour, Edgar W.	do.	35	31	H
Shawalter, Frank J.	Pvt. Hq. Co., 140th Inf., 35th Div.	15	18	B
Stephenson, Easton H.	do.	32	22	B
Stull, Frank Marion	Pvt. Co. I, 140th Inf., 35th Div.	6	43	H
Vigola, George E.	Pvt. Co. I, 140th Inf., 35th Div.	18	43	H
Watson, Edgar R.	Cpl. Co. M, 140th Inf., 35th Div.	17	44	D
Crisp, Jess	Pvt. Co. A, 129th M. G. Bn., 35th Div.	26	12	B
Gersie, John A.	Pvt. 1 cl. Bty. C, 129th Field Art., 35th Div.	37	9	C
Hickman, Fred H.	Pvt. Bty. B, 129th Field Art., 35th Div.	7	8	E
Wilson, Elsworth W.	Pvt. Bty. F, 129th Field Art., 35th Div.	35	2	E
Beecher, Thomas I.	Cpl. Hq. Co., 130th Field Art., 35th Div.	40	28	D
Fuller, Benjamin A.	Cpl. Bty. C, 130th Field Art., 35th Div.	26	14	C
Johnson, Wm. B.	Cook, Bty. C, 130th Field Art., 35th Div.	4	31	F
Adamson, Paul D.	Musc. 3 cl. Hq. Co., 110th Engr., 35th Div.	3	19	G
Baker, Alfred G.	Sgt. 1 cl. Co. A, 110th Engr., 35th Div.	16	43	D
Jessop, Charles T.	Pvt. 1 cl. Co. A, 110th Engr., 35th Div.	29	21	D
Norris, Fred F.	do.	37	1	D
Thurman, Harold D.	Pvt. Co. A, 110th Engr., 35th Div.	33	42	A
Vigor, John E.	Cpl. Co. F, 110th Engr., 35th Div.	17	5	C
Jones, Raymond E.	Cpl. Co. B, 110th Field Signal Bn., 35th Division.	8	37	E
Bennett, Webster S.	Wag. Hq. Det., 110th Hq. Train, 35th Div.	26	39	C
Hageman, Harry D.	Cpl. Co. F, 145th Inf., 37th Div.	40	10	A
Priest, Wade H.	2d lt. Co. A, 135th M. G. Bn., 37th Div.	29	33	A
Davis, Wm. A.	Pvt. 1 cl. Co. D, 117th Amm. Train, 42d Div.	9	3	A
Gill, Glenn E.	2d lt. Co. C, 307th Inf., 77th Div.	11	8	D
McVey, Willie W.	Pvt. Co. D, 308th Inf., 77th Div.	24	28	D
Leonard, Jerome M.	1st lt. San. Trn. Fld. Hosp., 302d Sanitary Trn., 77th Div.	26	12	A
Hall, Henry J.	Pvt. Co. L, 321st Inf., 81st Div.	31	36	C
Ritter, Floyd W.	Cpl. Co. A, 325th Inf., 82d Div.	37	28	H
Martin, Clifford	Pvt. Co. K, 327th Inf., 82d Div.	25	29	C
Limper, Henry H. A.	Pvt. Co. F, 349th Inf., 88th Div.	14	36	D
Voltz, Clyde	Pvt. Co. I, 349th Inf., 88th Div.	18	45	D
Wright, Gracen I.	Pvt. Co. G, 349th Inf., 88th Div.	24	25	G
Schaplowsky, John G.	Pvt. Co. G, 350th Inf., 88th Div.	4	3	F
Barton, Ray	Pvt. 1 cl. Co. C, 351st Inf., 88th Div.	13	22	H
Chandler, Jousbay S.	Pvt. Co. M, 351st Inf., 88th Div.	4	25	G
Johnson, Thomas	Pvt. Co. K, 351st Inf., 88th Div.	38	22	E
McGriff, James E.	Pvt. 1 cl. Co. F, 351st Inf., 88th Div.	16	44	A
Buchanan, Willis	Pvt. Co. I, 352d Inf., 88th Div.	33	26	E
May, James A.	Pvt. Co. G, 352d Inf., 88th Div.	11	25	G
Nesbitt, Randolph J.	Pvt. Co. H, 352d Inf., 88th Div.	12	24	G
Perry, Leo J.	Pvt. Co. E, 352d Inf., 88th Div.	6	26	C
Varner, John M.	Pvt. Sup. Co., 352d Inf., 88th Div.	40	45	D
Walker, Glenn E.	Pvt. Co. C, 337th M. G. Bn., 88th Div.	37	26	E
Oberg, Albert W.	Cpl. Co. Tr. Mtr. Bty., 339th M. G. Bn., 88th Div.	17	22	E
Ellis, Martin G.	Pvt. Co. C, 313th Engrs., 88th Div.	39	45	D
Gjonovich, George	Pvt. Co. D, 313th Engrs., 88th Div.	3	24	G
Wagner, Fred G.	Pvt. Co. B, Supply Train, 88th Div.	16	16	H
Cunningham, Floyd E.	Pvt. 1 cl. Co. D, Amm. Train, 88th Div.	40	44	A
Morris, Jesse E.	Pvt. Co. G, Amm. Train, 88th Div.	17	16	D

## Deceased soldiers from Kansas buried in cemeteries in Europe—Continued

Name	Rank and organization	Grave	Row	Block
MEUSE-ARGONNE CEMETERY, NO. 1232—con.				
Pratt, Charles W.	Pvt. Co. F, Amm. Train, 88th Div.	9	24	G
Scharpf, Ralph D.	Pvt. Co. E, Amm. Train, 88th Div.	13	24	G
Lewis, Gilbert M.	1st lt. 353d Inf., 89th Div.	12	2	F
Allen, Forrest	Pvt. 1 cl. Co. L, 353d Inf., 89th Div.	24	20	F
Angeli, Henry	Pvt. Co. A, 353d Inf., 89th Div.	32	7	F
Bayly, Harry E.	Sgt. Hq. Co., 353d Inf., 89th Div.	14	41	B
Beach, Alfred T.	Cpl. Co. E, 353d Inf., 89th Div.	39	43	H
Beamman, Roy	Pvt. Co. E, 353d Inf., 89th Div.	26	43	H
Berquist, Arthur C.	Cpl. M. G. Co., 353d Inf., 89th Div.	38	30	G
Blair, Tracy S.	Cpl. Co. E, 353d Inf., 89th Div.	9	22	D
Block, Joseph	Pvt. Co. M, 353d Inf., 89th Div.	27	24	F
Bolmer, Albert E.	Pvt. Co. H, 353d Inf., 89th Div.	8	26	B
Buckworth, Earl E.	Pvt. Co. K, 353d Inf., 89th Div.	21	37	A
Burghardt, Edward L.	Pvt. Co. E, 353d Inf., 89th Div.	26	16	H
Chamberlain, James W.	Cpl. Co. M, 353d Inf., 89th Div.	9	2	H
Craig, Oscar Eugene	Pvt. Co. I, 353d Inf., 89th Div.	30	15	F
Davidson, Frank Jefferson	Sgt. M. G. Co., 353d Inf., 89th Div.	6	5	H
Devine, Daniel P.	Pvt. 1 cl. Co. B, 353d Inf., 89th Div.	20	9	D
Eccher, Richard	Cpl. Co. I, 353d Inf., 89th Div.	10	29	G
Erickson, Albin	Pvt. Co. F, 353d Inf., 89th Div.	34	13	F
Gray, Harry E.	Pvt. 1 cl. Co. H, 353d Inf., 89th Div.	25	22	F
Griffith, Elmer C.	Pvt. Co. B, 353d Inf., 89th Div.	7	24	B
Hansen, Aavid L.	Cpl. Co. M, 353d Inf., 89th Div.	26	38	F
Heald, Arlington A.	Pvt. 1 cl. Co. G, 353d Inf., 89th Div.	17	14	F
Heidle, William T.	Pvt. Co. C, 353d Inf., 89th Div.	11	1	C
Hohberg, Albert	Cpl. Co. D, 353d Inf., 89th Div.	25	19	H
Johnson, Harold M.	Pvt. Co. I, 353d Inf., 89th Div.	4	28	E
Kingsbury, LaRue S.	Pvt. 1 cl. Co. C, 353d Inf., 89th Div.	24	40	B
Hirschbaum, John	Pvt. Co. A, 353d Inf., 89th Div.	12	25	G
Kren, Walter R.	Pvt. Co. I, 353d Inf., 89th Div.	21	31	B
Lindstrom, Walter R.	Pvt. M. G. Co., 353d Inf., 89th Div.	26	22	H
Lockwood, Emery C.	Pvt. Co. M, 353d Inf., 89th Div.	3	8	A
London, Marous L.	Pvt. Hq. Co., 353d Inf., 89th Div.	12	44	D
Marshall, Earl C.	do.	17	1	D
McCarren, Andrew J.	Pvt. Co. G, 353d Inf., 89th Div.	17	15	E
McDaniel, Lee B.	Sgt. Co. A, 353d Inf., 89th Div.	1	44	D
Metzker, William H.	Pvt. 1 cl. Co. L, 353d Inf., 89th Div.	28	38	F
Mooney, Fred W.	Pvt. Co. A, 353d Inf., 89th Div.	15	33	H
Murphy, Joseph M.	Cpl. Co. G, 353d Inf., 89th Div.	7	18	G
Owen, Henry H.	Pvt. 1 cl. Co. D, 353d Inf., 89th Div.	5	43	D
Perkins, Oscar T.	Pvt. Co. M, 353d Inf., 89th Div.	21	26	H
Puetz, Frank J.	Pvt. Supply Co., 353d Inf., 89th Div.	31	4	D
Schwandt, Carl Fred	Pvt. Co. H, 353d Inf., 89th Div.	6	31	H
Seymour, Quincy R.	Pvt. Co. F, 353d Inf., 89th Div.	35	12	G
Shannon, Edward	Sgt. M. G. Co., 353d Inf., 89th Div.	36	33	C
Shummin, Thomas Arthur	Pvt. 1 cl. Co. H, 353d Inf., 89th Div.	5	36	A
Slomski, Martin	Pvt. Hq. Co., 353d Inf., 89th Div.	2	34	G
Swart, Irvin Maxwell	Pvt. M. G. Co., 353d Inf., 89th Div.	22	24	A
Thompson, John Irwin	Pvt. Hq. Co., 353d Inf., 89th Div.	26	19	H
Trapp, Peter C.	Cpl. Co. M, 353d Inf., 89th Div.	40	39	F
Tuttie, Lewis F.	Pvt. 1 cl. Co. H, 353d Inf., 89th Div.	18	8	D
Verhoeff, Leonard C.	Cpl. Co. M, 353d Inf., 89th Div.	16	34	F
Wehry, Wm. Andrew	Pvt. Co. A, 353d Inf., 89th Div.	25	12	C
Wellnitz, Frank	Cpl. Co. C, 353d Inf., 89th Div.	28	3	D
Wood, Jasper M.	Pvt. Co. B, 353d Inf., 89th Div.	37	38	F
Wright, Roy E.	Mess Sgt. Co. G, 353d Inf., 89th Div.	26	4	D
Wright, Wm. E.	Pvt. 1 cl. Co. H, 353d Inf., 89th Div.	33	3	D
Fisher, Frank J.	2d lt. Co. B, 355th Inf., 89th Div.	22	45	A
Newman, Thomas	Pvt. Med. Det., 355th Inf., 89th Div.	15	6	B
Vilott, Fletcher L.	Pvt. Co. G, 355th Inf., 89th Div.	13	28	G
Coonrod, John V.	Cpl. Co. B, 356th Inf., 89th Div.	24	27	F
Gano, Harley P.	Pvt. Hq. Co., 356th Inf., 89th Div.	6	46	D
Wood, Everett Dale	Pvt. Co. C, 356th Inf., 89th Div.	36	21	G
Pickering, Henry W.	Pvt. Co. B, 314th Engineers, 89th Div.	8	19	B
Murphy, Robert C.	1st lt. Hq. Co., 357th Inf., 90th Div.	16	7	B
Harpole, Tillman H.	1st lt. 372d Inf., 93d Div.	3	41	B
Brodie, Clarence A.	1st lt. 13 Aero Sqdn., Non-Div., Air Service.	20	35	B
Bleckley, Erwin Russell	2d lt. 50 Aero Sqdn., Air Service, Non-Div.	33	25	F
Scott, Leonard L.	Sgt. 800 Aero Sqdn., Air Service, Non-Div.	32	42	H
Leupold, Albert K.	Pvt. 3 Bn., 22d Engrs., Engineer Corps., Non-Div.	24	35	C
Hodler, Charles R.	Pvt. 31d Fld. Rem. Sqdn., Q. M. C.	27	15	F
Shoemaker, Floyd	Pvt. 321 Fld. Rem. Sqdn., Q. M. C.	3	7	B
Osen, Eric G.	Sec. Y. M. C. A. Welfare, Non-Div.	21	1	F



## REFERENCE OF SUNDRY NOMINATIONS

Mr. SMOOT. Mr. President, in conformity with the unanimous-consent agreement entered into, I now move that the Senate take a recess until Monday at 12 o'clock.

Mr. JONES. I did desire to have an executive session.

Mr. SMOOT. I had not heard of it.

Mr. JONES. From the Committee on Post Offices and Post Roads, on behalf of the Senator from Colorado [Mr. PHIPPS] and from the Committee on Commerce, I report sundry nominations for the calendar as in open executive session.

The VICE PRESIDENT. The nominations will be received and placed on the Executive Calendar.

## RECESS

Mr. SMOOT. I now renew my motion for a recess.

The motion was agreed to; and the Senate (at 2 o'clock and 55 minutes p. m.), under the order previously entered, took a recess until Monday, September 16, 1929, at 12 o'clock meridian.

## SENATE

MONDAY, September 16, 1929

(Legislative day of Monday, September 9, 1929)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

## PETITION OF THE WISCONSIN LEGISLATURE

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on the Judiciary.

## STATE OF WISCONSIN.

## Joint Resolution 57, S.

Joint resolution relating to and supplementing the memorial to Congress in Joint Resolution 16, S., for a nation-wide referendum on the question of modifying the Volstead Act

Whereas both houses of this legislature have by large majorities adopted Joint Resolution 16, S., in which the Congress of the United States is memorialized to enact the necessary legislation for the holding of a nation-wide referendum on the question of modifying the Volstead Act to legalize the manufacture and sale of 2.75 per cent beer; and

Whereas it has been contended by the opponents of any modification of the Volstead Act that this memorial is futile and meaningless because the Congress of the United States has no control over elections to be held in the States and can devise no method by which it can submit any question to vote of the people; and

Whereas the Congress of the United States is, by section 1 of Article I of the Constitution, vested with full legislative powers in all matters delegated to it in the Constitution, which includes the power to procure information by all lawful means upon all subjects upon which Congress may legislate; and

Whereas the eighteenth amendment expressly makes it the duty of the Congress to pass legislation for the enforcement of prohibition, and no information is more vitally necessary for the discharge of this duty than the ascertainment of what the people of this country really want with reference to the enforcement of prohibition; and

Whereas the first paragraph of section 4 of Article I of the Constitution of the United States expressly provides that while "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof," the Congress "may at any time by law make or alter such regulations, except as to the place of choosing Senators"; and

Whereas the United States Supreme Court has held, particularly in the case of *Ex parte Siebold* (100 U. S. 371), that the Congress, if it so determines, may take complete charge of all elections of Senators and Representatives, and further that officers of elections at which Senators or Representatives are chosen, although commissioned under State law, are performing services for the Government of the United States and are amenable to Federal law; and

Whereas a simple method for ascertaining the wish of the people of this country upon a modification of the Volstead Act would be for the Congress to pass an act providing that in connection with the congressional elections of 1930 there shall be held an advisory referendum, for the guidance of the Members of Congress to be elected at the same time, upon this question; and

Whereas such an act would amount only to a method of securing needed information upon a subject undoubtedly within the power of the Congress and Congress unquestionably can control the elections at which Senators and Representatives are chosen, so that this suggested advisory referendum is not only highly desirable but also clearly constitutional: Therefore be it

Resolved by the senate (the assembly concurring), That this legislature hereby respectfully petitions the Congress of the United States to pass an act providing that in connection with the congressional elections of 1930 there be submitted to the qualified electors of the several States the question of modifying the Volstead Act to legalize

the manufacture and sale of 2.75 per cent beer, for the guidance of the Members of Congress to be elected at the same time, and providing further that said question must be included on the same ballot used for the election of such Members of Congress and that any election of such Members at which such question shall not have been submitted to the electors shall be invalid; be it further

Resolved, That duly attested copies of this resolution be sent to both Houses of the Congress of the United States and to each Wisconsin Member thereof.

HENRY A. HUBER,  
President of the Senate.  
O. G. MUNSON,  
Chief Clerk of the Senate.  
CHAS. B. PERRY,  
Speaker of the Assembly.  
C. E. SHAFFER,  
Chief Clerk of the Assembly.

## CALL OF THE ROLL

Mr. JONES. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	La Follette	Shortridge
Barkley	Goff	McKellar	Simmons
Bingham	Goldsborough	McMaster	Smoot
Black	Gould	McNary	Steck
Blease	Greene	Metcalf	Steiwer
Borah	Hale	Moses	Swanson
Bratton	Harris	Norris	Thomas, Idaho
Brock	Harrison	Nye	Thomas, Okla.
Broussard	Hastings	Oddie	Townsend
Capper	Hatfield	Overman	Trammell
Connally	Hawes	Patterson	Tydings
Couzens	Hayden	Phipps	Vandenberg
Dill	Hedin	Pine	Wagner
Edge	Howell	Pittman	Walcott
Fess	Johnson	Ransdell	Walsh, Mass.
Fletcher	Jones	Reed	Walsh, Mont.
Frazier	Kean	Robinson, Ark.	Warren
George	Keyes	Sackett	Waterman
Gillett	King	Sheppard	Watson

Mr. LA FOLLETTE. I desire to announce that my colleague [Mr. BLAINE] is unavoidably absent. He is a member of the committee attending the funeral of the late Representative Kvale. I ask that this announcement may stand for the day.

I also desire to announce that the senior Senator from Minnesota [Mr. SHIPSTEAD] is absent on account of illness. I ask that the announcement may stand for the day.

Mr. FESS. I wish to announce the unavoidable absence of my colleague [Mr. BURTON] from the Chamber. I ask that this announcement may stand for the day.

Mr. McMASTER. I wish to announce that the senior Senator from South Dakota [Mr. NORBECK] is unavoidably absent. I will let this announcement stand for the day.

The VICE PRESIDENT. Seventy-six Senators have answered to their names. A quorum is present.

## THE JOURNAL

Mr. JONES. Mr. President, in the interest of a proper handling of the Journal, I ask that it may be approved for the calendar days of September 9 to 14, both inclusive.

The VICE PRESIDENT. Without objection, it is so ordered.

## BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DALE:

A bill (S. 1699) granting an increase of pension to Mary A. Cate (with accompanying papers);

A bill (S. 1700) granting an increase of pension to Martha M. Fletcher (with accompanying papers); and

A bill (S. 1701) granting an increase of pension to Emma LaPoint (with accompanying papers); to the Committee on Pensions.

By Mr. METCALF:

A bill (S. 1702) for the relief of George W. Burgess; to the Committee on Claims.

A bill (S. 1703) granting an increase of pension to Agnes E. Kenyon (with accompanying papers);

A bill (S. 1704) granting a pension to Rebecca C. Sparhawk (with accompanying papers);

A bill (S. 1705) granting an increase of pension to Pauline Kellerman (with accompanying papers); and

A bill (S. 1706) granting an increase of pension to Ethilind M. Silber (with accompanying papers); to the Committee on Pensions.

A joint resolution (S. J. Res. 71) to amend the joint resolution directing the Interstate Commerce Commission to take ac-